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House. Banking + Currency

Abolition of the subtreasury
Feb. 10, 1920

66 cong. 2 sess.





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ABOLITION OF THE SUBTREASURIES

HEARING

BEFORE THE

COMMITTEE ON BANKING AND CURRENCY OF THE HOUSE OF REPRESENTATIVES

ON

H. R. 12209

A BILL TO ABOLISH THE SUBTREASURIES AND TO TRANSFER THEIR DUTIES TO THE FEDERAL RESERVE BANKS, THE TREASURY AT WASHINGTON, THE MINTS AND ASSAY OFFICES, AND FOR OTHER PURPOSES

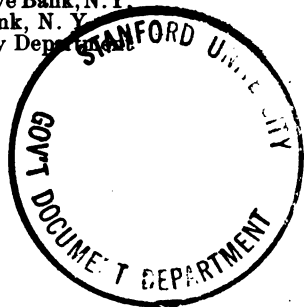
TUESDAY, FEBRUARY 10, 1920

STATEMENTS OF

Hon. Charles S. Hamlin, Federal Reserve Board
Governor Harding, Federal Reserve Board
Mr. Harrison, Federal Reserve Board
Hon. R. C. Leffingwell, Assistant Secretary of the Treasury
Hon. Pierre Jay, Chairman, Federal Reserve Bank, N. Y.
Hon. Robert G. Hand, Assistant Treasurer of the United States
Mr. Joseph D. Higgins, Federal Reserve Bank, N. Y.
Mr. J. F. Curtis, Federal Reserve Bank, N. Y.
Mr. H. P. Huddleson of the Treasury Department



WASHINGTON
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1920



COMMITTEE ON BANKING AND CURRENCY.

HOUSE OF REPRESENTATIVES.

SIXTY-SIXTH CONGRESS, SECOND SESSION.

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NOV 2 1923.

ABOLITION OF THE SUBTREASURIES.

COMMITTEE ON BANKING AND CURRENCY,
HOUSE OF REPRESENTATIVES,
Tuesday, February 10, 1920.

The committee met at 10.30 o'clock a. m., Hon. Edmund Platt (chairman) presiding.

The CHAIRMAN. Gentlemen, as this is a hearing on the bill to abolish the subtreasuries and we have a good deal to do, I do not think it is necessary to wait for a full committee, especially as Mr. Hamlin has got to go back to a meeting of the Federal Reserve Board and wishes to make an opening statement as to how this matter originated and its purpose, and I think we might let him go ahead.

Mr. LONERGAN. I suggest, Mr. Chairman, that these gentlemen be permitted to conclude their remarks without any interruption, and then if there is any interrogation it follow the conclusion of their statement. I think we can make more headway if that is done.

The CHAIRMAN. I think that is a good suggestion. What Mr. Hamlin expects to give us, I think, is the preliminary history of the bill, and the questions will be answered, I suppose, by others here. You may proceed, Mr. Hamlin.

STATEMENT OF HON. CHARLES F. HAMLIN, OF THE FEDERAL RESERVE BOARD.

Mr. HAMLIN. Mr. Chairman, I should like to ask permission to make a very brief statement and then I would say that we have a very important meeting of the Federal Reserve Board this morning, and I think the governor and I feel that we ought to go back, but of course we will be at the service of the committee at any other time.

Some months ago the Secretary of the Treasury, Mr. Glass, appointed a committee of which he designated me as chairman to take up the whole question of the abolishment of the subtreasuries and to report a bill, if we believed that such abolishment was desirable or necessary. The committee sat every week, sometimes two or three times a week, for over a month, or perhaps two months. We agreed on a preliminary draft of a bill which was purely tentative and sent that to the respective Federal reserve banks. Before all the replies were received the Secretary of the Treasury told me that he had to go before the Appropriations Committee, and it was absolutely necessary to have a draft of the bill to show to the Appropriations Committee to show that due progress was being made. I accordingly called the committee together, and we did the best we could and put the bill in the shape in which it is now. I understand that draft was taken by the Assistant Secretary of the Treasury, Mr. Leffingwell, to the Appropriations Committee. Then I was informed by the chairman of this committee that he thought he would introduce our bill

and have hearings on it, and I want to say that the committee feel that the bill is of such importance that we are very glad that it is to be taken up and critically studied by this committee.

The bill is necessarily tentative, because it was finally whipped into shape merely for the purpose of showing that progress was being made. The Secretary of the Treasury then referred the bill to the Federal Reserve Board for critical examination and we have sent copies of this bill, H. R. 12209, to every Federal reserve bank, requesting them to reply at their earliest convenience, by telegraph if they deemed it necessary. Those replies have not yet been received, so that I come here this morning merely as chairman of the special committee, and the members of the committee are here, Mr. Hand, Mr. Huddleson, and the Assistant Secretary of the Treasury.

With that brief statement I will ask to be excused and meantime Gov. Harding will speak for the board, as to when they may be able to report fully to the committee.

The CHAIRMAN. Gov. Harding, we will be glad to hear you.

STATEMENT OF W. P. G. HARDING, GOVERNOR FEDERAL RESERVE BOARD.

Mr. HARDING. Mr. Chairman, before the committee considered this bill in formal session it may have been read by the members privately, but I never had an opportunity to look over it myself until yesterday afternoon.

There are a good many difficulties in the way of getting the right kind of a bill, transferring the subtreasury functions to the Federal reserve banks. I would like to point out that the law as it stands now requires Federal reserve banks to perform functions of fiscal agents whenever required to do so by the Secretary of the Treasury, but there is no dual control. The Federal reserve banks are still under the supervision of the Federal Reserve Board, not only as to their general banking departments but also with respect to their fiscal agency departments. The salaries paid those in the fiscal agency department are subject to the approval of the Federal Reserve Board, even where reimbursement is made by the Treasury. The Federal Reserve Board has the right to send its examiners into a Federal reserve bank and check up every department of the bank, and I think it will be conceded that any examination of a bank which does not cover every department of that bank is necessarily incomplete and ineffective.

I can see two objections to the present bill as it is drawn. First, it seems to adopt a principle of dual control. It is pretty hard for anybody to serve two masters. We have had some experience heretofore on the subject of dual control and have seen some of the complications that have arisen from it. The Federal reserve banks are under the general supervision of the Federal Reserve Board. This bill in defining the subtreasury functions puts them exclusively under the control of the Secretary of the Treasury in regard to those particular functions. Now it has always been understood, I believe, that a Federal reserve bank is not a Government bank. This has been recognized in that they have been given no franking privileges in the mails. This bill recognizes the fact because it gives them a franking privilege in connection with the subtreasury function, and

it seeks to make a subtreasury out of a bank which is not a Government institution, whose officers are not Government officers, and only three of whose directors can be in any way regarded as having been appointed by Government authority. That is the class C directors appointed by the Federal Reserve Board. Six directors are appointed by the member banks.

Now it seems to me that while there ought not to be any interference whatever with the Treasury functions, the objects sought by this bill are merely an extension of the fiscal agency functions already provided for, and the bill ought to be framed with that idea in view. But the Federal Reserve Board ought to retain its same general supervision over the manner of exercising these functions that it has now; the Secretary of the Treasury should prescribe to the banks what subtreasury functions he wants them to exercise, and generally how they should exercise them, but there ought to be some supervision of the banks to see that they are exercising these functions properly, and if the Federal Reserve Board is not permitted to examine the banks with respect to those functions, the bill ought to be amended so as to provide for a treasury examination of the banks in connection with them. It would be better, I think, though, for the board to have examining power so as to have unified control.

Then there is another thing. The question has come up several times heretofore as to the liability of an agent, and the responsibility of the agent to his principal as to whether or not the principal is liable for the acts of omission or commission of his agent.

Now I believe that the whole process would be simplified if the Government should assume the relation with these banks as a depositor, if it were possible to have these functions discharged by the Federal reserve bank not so much as a fiscal agency function but as a matter of handling certain business growing out of a deposit. Let the law be amended so as to authorize the Federal reserve banks, where required to do so by the Secretary of the Treasury, to receive governmental deposits, make certain disbursements and certain redemptions under rules and regulations prescribed by the Secretary of the Treasury, giving him full control, of course, of all the methods that he wants adopted and the functions which he wants them to exercise, but have a clear understanding all the time that these banks are not branches of the Treasury; they are not subtreasuries in any respect, but they are merely handling Government funds, and it is just a question of an agreement then that any ordinary depositor with a bank would make. You open an account with a bank; you leave your signature there; you tell the bank to pay your checks against your balance when signed either by a single signature, or sometimes you want to require a counter signature; you can do so and the bank has to carry out your instructions, but you do not assume any responsibility as to the management of the bank. That is the main thing that I wanted to call to the attention of the committee, that the banks were not Government banks and that there ought not to be a dual supervision or control over the banks, and that while there ought to be a clear cut definition of what these functions are and the manner in which they should be exercised, but that the general supervisory powers that the board now has over Federal reserve banks ought not to be impaired; that no examination of a part of the bank amounts to anything unless you

can examine the whole thing, and instead of having two authorities making the examination it is much better to have one authority make the examination.

The CHAIRMAN. There is nothing in the bill now that provides for that?

Mr. HARDING. Nothing that provides for examination.

Our counsel, Mr. Harrison, is here, and I would be glad if you would ask him a few questions, to see whether or not he agrees with what I have said, whether he thinks there is any authority vested in the Federal Reserve Board to examine the subtreasury functions as defined in this bill.

Mr. PHELAN. I would like to ask one question of Gov. Harding. I notice, if I interpret the section correctly, that the 5 per cent fund against redemption of national bank notes may be taken in the form of a deposit in Federal reserve banks. As I understand it now, the banks have to deposit with the Treasurer, or with the Treasurer, 5 per cent in lawful money. Now is that kept in lawful money in the Treasury, or is that mixed with the general funds?

Mr. HARDING. Mr. Harrison could answer that question better than I could.

Mr. R. C. LEFFINGWELL (Assistant Secretary of the Treasury). Mr. Hand, what was the theory of that provision.

Mr. ROBERT G. HAND (commissioner of accounts and deposits). The idea is that the deposit itself shall be made in lawful money. Once it is made in lawful money, there is necessarily a duty on the part of the Treasury of the United States to always retain in the general fund a sufficient amount of lawful money to meet that liability. Of course there is no special earmark on any dollar after it once comes in.

Mr. PHELAN. I think that is consistent with what we expect the law to mean. In other words, you have always got 5 per cent in lawful money to meet that demand. Now under this bill you take a deposit of 5 per cent, and so far as I can see there is no requirement on the part of anybody to keep that in lawful money; in fact, it does not have to be made in lawful money, under this bill. So instead of having the 5 per cent some place to meet the redemption of those notes, you have only—you need have only 40 per cent or 35 per cent of 5 per cent, which is the amount required under the Federal reserve act to keep against deposits. Is that not so?

Mr. HAND. That is true, but the right to withdraw deposits would necessarily give the Treasury the right to withdraw even a certain amount in lawful money.

Mr. PHELAN. Except—my point is this: It is a question of how far we want to go in breaking down our reserves. Now under the present law we have got for certain 5 per cent against the national bank notes outstanding; under this bill we need not have 5 per cent; it could be 35 per cent of 5 per cent, and to that extent would make necessary so much less reserve against outstanding obligations. You get my point, Governor?

Mr. HARDING. Yes.

Mr. PHELAN. Now the question I want to know is whether or not you think that is a wise provision.

Mr. HARDING. I don't believe it is.

Mr. PHELAN. I may mistake that, but that is my interpretation of it, and if I am mistaken I would like to have some of you point out in what respect.

Mr. HARDING. That is the first time it has been brought to my attention.

The CHAIRMAN. Mr. Harrison, do you want to make a statement now?

**STATEMENT OF MR. G. L. HARRISON, GENERAL COUNSEL
FEDERAL RESERVE BOARD:**

Mr. HARRISON. I have not had an opportunity to give the bill sufficient study to justify any detailed comments on it. As a general proposition, I agree with Gov. Harding that so far as the powers of the Federal reserve banks are concerned, there is no doubt that they now, under the law, can engage in any fiscal operations that the Secretary of the Treasury may deem it advisable to require, and that therefore any amendment to the law must, so far as this particular feature is concerned, be an amendment to the powers of the Secretary of the Treasury, rather than an amendment to the Federal reserve act enlarging the powers of the Federal reserve banks. I am mentioning that only to carry out the thought, along the line that Gov. Harding suggested, that any attempt to enlarge or alter the functions or powers of the Federal reserve banks might be construed as an attempt to make the banks a branch or department of the Treasury, rather than an independent corporation already possessing powers to perform certain acts for the Treasury Department whenever it wishes. I do not feel, and I do not think Gov. Harding meant to imply, that the Treasury Department should lose all right to rule or regulate the manner in which its fiscal operations should be conducted, but rather that they should go to the Federal reserve banks with rules and regulations saying: "I want you to do this, that, or the other thing, subject to these limitations." But these operations when undertaken must be subject to the general supervision of the Federal Reserve Board.

The CHAIRMAN. You expect to give the bill careful study and suggest any amendments that you think may be necessary?

Mr. HARRISON. I should like very much to have an opportunity of studying it. I have not in the past. I saw it only yesterday morning and really have not looked into it as carefully as I would like before making any statement.

The CHAIRMAN. Of course the occasion for hurry in the matter is the fact that the Appropriations Committee is seriously proposing to put this bill in as a rider on the legislative, executive, and judicial appropriation bill, which will probably come into the House next week.

Mr. HARRISON. There are certain rough spots in the bill that will, of course, be smoothed out with a little further thought. As I remember, however, there is one feature that leaves to the discretion of the Secretary of the Treasury the determination of whether currency will be redeemable by the Federal reserve banks, the Treasury Department, the assay officers, or mint. That ought to be defined pretty clearly in the law, and not left to the discretion of

the Secretary of the Treasury. The holder of any particular obligation should know definitely, as a matter of law, where he can have it redeemed, without the possibility of future regulations depriving him of rights that he thought he had at the time he acquired the obligation. But that, I think, was a mere oversight by those who prepared the bill and will no doubt be corrected.

Mr. PHELAN. I would like to ask Mr. Harrison one question, Mr. Chairman.

I presume now that a State bank can go to a subtreasury and get—a nonmember bank—and get coin, subsidiary coin or coin of other sorts?

Mr. HARRISON. I assume that is true, although I think perhaps Mr. Hand can answer that better than I.

Mr. HAND. Yes, sir.

Mr. PHELAN. Well, under this bill what relation will the nonmember banks have in that respect to the Federal reserve banks? Will the Federal reserve bank be obliged to give them the same accommodation that the subtreasuries now give them—to nonmember banks?

Mr. HARRISON. As I understand the bill, that would depend upon the regulations of the Treasury Department.

Mr. HARDING. There is one other point I want to speak of in regard to facilities for handling this business. Only one of the banks has permanent quarters, so far, and therefore the facilities at present are inadequate, although they are building a new vault now which will give adequate facilities. All of the banks have purchased real estate for their buildings, but it will be some time before they will have adequate permanent quarters, and most of them now have vault facilities which are inadequate for their present needs, and I must confess I am at a loss to see how a majority of the Federal reserve banks could undertake to care for any more funds or securities with their present facilities. There would be no way of segregating them.

Mr. PHELAN. Governor, I don't want to detain you—perhaps some of the others can answer this question—I notice that in the bill there is a provision made that the Federal reserve bank may be charged rent for the use of some Government buildings, and so far as I can see there is no provision in the bill for compensation to the Federal reserve banks when this service is rendered. Now, is there any provision anywhere whereby the Federal reserve banks can be compensated for the service they render the Government, or should that be put into this bill, or should any provision be made for that?

Mr. HAMLIN. I think, perhaps, I can answer that. That clause providing that all the duties and functions shall be as fiscal agents, it was understood that that would carry compensation to the banks, and I want to say that at the early meetings of the committee we first decided that it would be advisable for the banks to absorb all the expenses, and we provided that the Secretary of the Treasury could permit them to use existing subtreasury buildings until their premises were completed. At the last meeting of the committee, at which Mr. Glass said he must have a copy of the bill, the majority of the committee took the other view and inserted this clause as to fiscal agents, which was intended to mean that they should be entitled to compensation in the sense of reimbursement of extra expenses. It was also put in because of the feeling of some of the

committee that a Federal reserve bank might incur some liability if it did a thing in its ordinary banking function which would not be incurred if it acted as the fiscal agent of the Government; and for those two reasons—I think those were the reasons for inserting that. So, as the bill stands, the committee think that it would carry reimbursement by the Secretary for the functions, or at any rate the additional functions now proposed to be placed on the banks.

Mr. PHELAN. Well, if it carries reimbursement, why should the provision be put in as to rental?

Mr. HAMLIN. That provision, I suggested to the chairman, ought to be excluded, because the only reason for their taking over sub-treasuries temporarily would be because they had not the facilities and it would be an extra expense, and if they had to pay rent, of course they would charge back the rent as a legitimate expense in conducting the fiscal agency operations. So I think that rental charge could well be omitted.

Mr. PHELAN. Has any interpretation been made of the phrase you use, "fiscal agent," as to whether or not that could permit greater compensation than mere reimbursement for expenses?

Mr. HAMLIN. I know of no distinction made between a fiscal agent, the fiscal agency functions, and ordinary banking functions, and if this committee could define it, it would be very helpful.

Mr. PHELAN. I don't think I made myself clear. Under the bill, could these banks be paid more than their expenses?

Mr. HAMLIN. I don't so understand. I understand that their expenses would be reimbursed by the Secretary of the Treasury.

Mr. PHELAN. And nothing more could be paid them?

Mr. HAMLIN. That is my understanding.

Mr. HARDING. I would like to point out, Mr. Chairman, that it is important that no very large item of expense be levied against Federal reserve banks in connection with this business, because while their earnings are very large just at present, as a matter of fact the Government in the last analysis gets all those earnings now, except the 6 per cent dividends to the member banks on their stock, and that if the Federal reserve banks ever function as reserve banks should function in normal times, their earnings are going to be very much more moderate than they are now. They will more nearly approximate the earnings of 1916. During the war the Federal reserve bank rates were artificial; they were lower than the market rates in order to enable the Treasury to float large issues of securities from time to time, but the normal functioning of any central bank abroad or a reserve bank here is to have the discount rate higher than the market rate, so that there is no profit to a member bank rediscounting for the sake of rediscounting in order to reloan again. The reserve bank ought to have a higher rate than the market rate.

Of course it is impossible to bring that about right away, because the effect now of raising the rate of the Federal reserve bank means a higher market rate, and it is impossible for us to get by. But sooner or later we hope to be able to do that, and whenever this is done the earnings of the member banks will be very greatly reduced, because there will not be so much rediscounting. The income of the Federal reserve banks will be so much reduced because there won't be so much rediscounting, and as the Government obligations

are retired or absorbed by investors they will not be used as collateral to such an extent as they are now and the whole borrowing scheme will be reduced and the country will get back to a moral logical level of credit.

Mr. PHELAN. Governor, it would not make much difference what the provisions are, as long as the member banks get their 6 per cent dividends; but if there is any additional work put upon these banks, with expense entailed, it will make a difference.

Mr. HARDING. It might jeopardize the dividends and that would make considerable difference.

Mr. PHELAN. Then, it would be putting a burden upon member banks for which we pay them nothing.

Mr. HARDING. It would be putting a burden upon a small class of the public which all of us ought to bear.

The CHAIRMAN. Mr. Leffingwell, I suppose you wish to leave before long?

STATEMENT OF MR. R. C. LEFFINGWELL, ASSISTANT SECRETARY OF THE TREASURY, IN CHARGE OF FISCAL BUREAUS.

Mr. LEFFINGWELL. I do wish to leave before long, Mr. Chairman. I am in the position of some others here in regard to this bill, not having studied it until yesterday. Gov. Hamlin has explained how it came to be before the Appropriations Committee. The Governor and his committee were very careful at the time to disavow responsibility for the bill as a final measure. It was submitted really as a basis for discussion. Secretary Glass had never read it; I had not read it as then submitted, and Secretary Houston of course has not had time to study it. So the Treasury has not taken any position up to this moment as to that particular bill.

In general I think the bill is open to the criticism which Gov. Harding has made. I say that not particularly from the point of view of the Treasury, but from the point of view of the general problem you are considering. I can think of nothing more unfortunate than to adopt a measure here which would seem to make the Federal reserve banks part of the Treasury of the United States. The Federal reserve system was created, among other things, to make it possible to divorce the Treasury from banking. It has done a wonderful work. I am entirely in sympathy with Gov. Harding's feeling that the Federal reserve banks should remain private banks with Government representation, and subject as to their administration to the control of the Federal Reserve Board. In my opinion, the Federal reserve banks are responsible for some features of this bill which precisely defy that principle, and they are responsible out of a natural desire to get paid for services rendered and get new powers. They are wrong about it. It is bad for the Federal reserve system that Federal reserve banks should have the general franking privilege, that they should have, as they are asking—not in this bill, but some of them are asking—power to condemn real estate. These banks are outside institutions with which the Treasury wishes to deal as such, and it wishes the Federal Reserve Board to supervise them and to be responsible for the ordering of their affairs. That is the way we have done business up to now. The Secretary of the Treasury calls upon them to act as depositories and fiscal agents

and determines their duties as such, but looks to the Federal Reserve Board to supervise the banks in all matters of internal economy. They are the best friends we have; they have made the success of war finance possible.

There are certain conveniences to be had and certain added power to be gained by assimilating the Federal reserve banks to Government institutions, but we must not lose sight of the main principle, and that is that it is sound finance and sound banking to keep the Federal reserve banks private institutions with which the Government deals in a relation of confidence but at the same time a relation of independence.

There are just about three things in this problem of abolishing the subtreasuries. One is the war-savings certificates. The subtreasuries are handling those. I have given orders that that work be turned over to the Federal reserve banks, and that they handle that just as they handle Liberty loan issues. That is a fiscal agency function pure and simple, one which the central banks of Europe have always performed for their Governments, just as every borrower has to have a bank to handle its operations for it. That is an outside matter.

Another thing is the redemption of currency. The Federal reserve banks are handling to-day, Mr. Hand tells me, about 70 per cent of the redemptions made. They are handling them without expense to us.

Mr. PHELAN. Redemptions of what?

Mr. LEFFINGWELL. Of unfit currency; and the bill in that respect simply puts the expense of the operation on the United States. It is for Congress to say whether it wants to put the expense of the operation on the United States, but certainly it ought to be handled not as a fiscal agency operation but as a depository bank operation. If the relationship between the United States and the Federal reserve banks ought to be amended so that the United States will pay the expense of the shipment of that currency back and forth, still that should be a depository bank operation and that money should go into the general account of the Treasury of the United States. It should have nothing to do with fiscal agency at all.

There is only one other thing, and that is the disposition of subsidiary and minor coin. It is obvious that we can not turn over \$20,000,000 or \$30,000,000 of 50-cent pieces, quarters, and dimes to the Federal reserve banks and ask them to give us credit in the general account for that amount of money and pay out Federal reserve notes upon the Treasury's order. Subsidiary coin is a thing by itself, and that coin ought to be handled in a separate account. A special account ought to be set up with the Treasury of the United States—whether it be called a fiscal agency account or not is a secondary matter—but that coin ought to be handled in a separate account and not go into the Treasurer's general account.

I believe that you can cover those two remaining operations in very few words if you accept the general view which Gov. Harding has announced, and which Mr. Harrison has expressed, that we are not going to alter the fundamental relation between the Treasury and the Federal reserve banks, which is laid down in section 15 of the Federal reserve act and which works perfectly. Under that section we may use these banks as depositories and use them as fiscal agents.

Those few words cover the whole situation. That authority has served for three years during the stress of war. It will serve during the much simpler days of peace, if we don't complicate it by attempting to be too specific about a lot of things.

I think it is for Congress to say whether the Federal reserve banks ought to send in a bill for the expense of shipping currency back and forth. They ship too much already; we can't print it fast enough for them. The time may come, as Gov. Harding says, when Federal reserve banks ought not to bear that expense. Just at present the Government has been very liberal with Federal reserve banks. We turned back to them some \$26,000,000 of their surplus by act of Congress last year, and the Federal reserve banks are making a great deal of money, to a considerable extent as a result of the Government's operations. My notion is that the less the Federal reserve banks are dependent upon appropriations by Congress for the successful conduct of their business as depositories, the better it is for the Federal reserve system. I think in so far as it is possible to make the operation of the Federal reserve banks autonomous, and to set off the benefits they derive from the business they do for the Government against the expense of the business they do for the Government, just as any bank does for any good customer, the better.

The Government carries a big balance with the Federal reserve banks upon which it charges no interest. That is the only deposit account we have in this country on which we charge no interest, and I think it is debatable whether Federal reserve banks should change their existing policy and send in a bill to the Government for the expenses of shipments of unfit currency back and forth.

But that is not the main point. The main point in my mind is that as much as possible of this operation should be handled by the reserve banks in their capacity as depositories, and that all that the Treasury needs is authority to close down those subtreasuries and to meet the expense of doing the thing.

That is strictly a Treasury problem. Here is a bill which tells us what to do but does not give us the money necessary to do it. It will die on the statute books unless it carries an appropriation, and Mr. Huddleson, who is here and will go into the details of it with you, tells me it will cost some \$300,000 to make the necessary transfers of funds and close these subtreasuries.

Another thing I want to speak about is that the Treasury of the United States ought to have adequate vault space. I ask that what I say on this subject may be treated as in executive session and not be put into the record.

The CHAIRMAN. Make it subject to the right to strike it out afterwards.

Mr. LEFFINGWELL. We haven't adequate vault space. We are very anxious that we should have power to rebuild the old vault in the Treasury Building here in Washington. There is a great big vault there in which we had silver dollars and when we sold silver dollars we concentrated our deliveries on the contents of that vault. The result is that for the first time in years it is possible to rebuild the vault. The expense of moving the silver was borne by the British Government in connection with the sale of silver under the Pittman Act. There is a wonderful opportunity to do the thing now. Now is the time to do it and the fact that we are planning to abolish the

subtreasuries is the best reason why we should put the Treasury of the United States in a position to care adequately for its gold elsewhere. The abolition of the subtreasuries makes it necessary, to my mind, to give the Treasury of the United States a proper place to keep the gold and the silver, and this bill ought to carry an appropriation for rebuilding the old vault. I am going to ask Gov. Harding to speak on that point in just a minute. It is not right that the Treasury of the United States should have no proper place of its own to keep these great funds.

The CHAIRMAN. What about the mint in Philadelphia?

Mr. LEFFINGWELL. I don't remember the exact condition of the mint in Philadelphia, but we should not, of course, concentrate in any one place. These funds should be spread about.

There is a question about these trust funds which the bill presents, though rather vaguely, whether the Treasury is to deposit them with the Federal reserve banks or not. You will recall that Secretary McAdoo was very positive a year or more ago that that ought not to be done; that those trust funds should be held in the custody of the Treasury or the mints or subtreasuries. I think that is undoubtedly correct as to the bulk of the funds, but that the Treasury ought to be free to carry a portion of them as a special deposit with the reserve banks as a measure of practical convenience and even necessity.

Now, I think I have about covered the things I had in mind. I have a number of notes on the bill which I shall be glad to lay before you, Mr. Chairman. I want to ask you if you will let Gov. Harding say just a word about this vault question?

Mr. STEVENSON. Mr. Chairman, may I ask Mr. Leffingwell a question? I have not been very familiar with this matter because I have been sick.

What is the difficulty with simply abolishing the subtreasuries and authorizing the Treasury Department to make necessary fiscal arrangements and incur such necessary expense as it might have to, as a substitute for the use of the subtreasuries, and providing for the transfer of the employees of the subtreasury? What is the necessity for all this complicated bill, when you can cover it with those three things?

Mr. LEFFINGWELL. I am inclined to think there is no such necessity.

Mr. STEVENSON. It seems to me that that is about all you want. We have twice since I have been in Congress put through on an appropriation bill an authorizing clause just about to that effect.

Mr. LEFFINGWELL. My impression is that the appropriation bills heretofore have simply abolished the subtreasuries out of hand and left the money lying there with no means to move it, and no interval to make the necessary arrangements in an orderly way. That is the kind of legislation the Treasury wants to avoid.

Mr. STEVENSON. You have merely had blanket authority to provide for the performance of the duties heretofore performed.

Mr. LEFFINGWELL. It seems to me that the Secretary of the Treasury and Gov. Harding and the Federal Reserve Board, under the powers contained in section 15 of the Federal reserve act, would be able to conclude an arrangement entirely satisfactory to everybody concerned if the Congress were simply to make an appropriation adequate to enable the Secretary of the Treasury to meet the expenses of the original transfer of funds and to put in a proper vault in Washington.

Mr. PHELAN. Mr. Leffingwell, what is there in the bill that would permit—or in the law—that would permit these trust funds to be deposited with Federal reserve banks?

Mr. LEFFINGWELL. That is the question I referred to.

The CHAIRMAN. The bill only provides for making trust fund deposits.

Mr. LEFFINGWELL. I understand that one section of the bill was intended to authorize the Secretary of the Treasury to put these trust funds into Federal reserve banks. Of course if he were not to do so, he would have to carry them in the mints and assay offices.

Mr. PHELAN. He could put them in as deposits.

Mr. LEFFINGWELL. As I understand it, section 7 of this bill, page 4, is intended to authorize the Secretary of the Treasury to deposit the trust funds, referred to in section 2 on page 2, with the Federal reserve banks under certain conditions and limitations. It requires them to segregate those funds.

Mr. PHELAN. Mr. Leffingwell, what was the purpose in making any provision that these trust funds could be deposited with the Federal reserve banks?

Mr. LEFFINGWELL. I think the purpose was this: It may as a practical matter be impossible to transact the business at the mints and assay offices. If gold is being shipped out of the country and we have gold certificates presented, we must have the gold somewhere in reach, either at the Federal reserve banks or at some United States Government agency. I have no doubt that the committee appointed by Secretary Glass has concluded that it would not be practicable or convenient to abolish the subtreasuries without making it possible for the Secretary of the Treasury to carry special deposits of gold in Federal reserve banks.

The CHAIRMAN. Suppose the subtreasury in New York was turned over to the Federal reserve banks for the time being; in order to keep the gold there for a time, wouldn't the Secretary of the Treasury have to have authority to make a special deposit?

Mr. LEFFINGWELL. I am not prepared to say that he has the power to do that under existing law.

Mr. PHELAN. Could any provision be worked out along that line, that the trust funds be kept in the places provided for in section 2, and a further provision made that these Federal reserve banks pay out whatever demands are made upon them for the trust funds, and immediately get credit with the Treasury Department in that fund for sufficient gold to cover it? Because the Federal reserve banks are obliged to keep 40 per cent in reserve against their outstanding notes, and 35 per cent against deposits, presuming that they always have gold. The only question involved there would be the shipment of gold as soon as might be from one of these points to the Federal reserve bank paying out.

Mr. LEFFINGWELL. I really think if you consider these general questions from the point of view of enacting no more legislation than the situation clearly requires, rather following the line that Gov. Harding first suggested, and which I followed, many of these questions will disappear. What we need is authority to close the subtreasuries, and an appropriation to meet the expense of moving the funds, and I question very much whether you need to go into all this detail. We have power to use the Federal reserve banks as

fiscal agents and depositaries; Gov. Harding and the Federal Reserve Board will continue to supervise the banks.

Mr. HARDING. As far as the Federal reserve banks are concerned, there is nothing in the law, no reason that I can see, why they can not make an agreement with the Treasury to handle the account in such a way as the Treasury wants it handled, just as any large member bank would receive an account from a corporation. Now a corporation might require half a dozen signatures on a check. That is all a matter of memorandum. They have a signature card in there. The corporation might want to provide for the custody of certain securities; the corporation might want to have a bank having trustee powers to act as trustee for bond issues and it might sometimes require that segregation of funds, although that is unusual, but there is nothing to prevent a bank from doing all that for his own customer; at the same time the United States doesn't exercise any control over the bank or assume any responsibility for the management of the bank, but has merely a contract agreement as to how the bank will handle particular funds and particular business intrusted to it by the customer. It is the same way with the Treasury and the Federal reserve banks. If the Secretary of the Treasury hasn't got certain authority that he ought to have to carry out these things, then it is up to Congress to give him authority; if he has already got authority, then the matter is comparatively simple, as has been suggested by Congressman Stevenson.

Mr. LEFFINGWELL. I would like to add to what Gov. Harding has said, Mr. Chairman, that that is the way we have been doing business. The Treasury has not undertaken to audit the Federal reserve banks, even in their fiscal agency operations. The examiners of the board report to the board, the Treasury holds the board responsible for the performance of their duties by the Federal reserve banks. I believe it is a sound principle and really I am inclined to the opinion that you can write a short act, relying on the general power of the Secretary of the Treasury to use these banks as fiscal agents and depositaries—you can write a short act which authorizes the closing of these subtreasuries, take care of their employees and empower the Secretary to pay the bills incident to the closing operation. I should like to ask Mr. Harrison, counsel for the Federal Reserve Board, how he feels about that offhand.

Mr. HARRISON. Offhand that was the impression I tried to convey in the first instance. There may be certain questions of detail which will need specific legislation—that is, where the Secretary of the Treasury will need express authority, for instance, if Congress should decide it advisable to permit the Secretary of the Treasury to place special trust funds in Federal reserve banks. Offhand I think the Federal reserve banks have the authority to hold special trust funds, but as I remember the bank act I think there is considerable doubt as to whether the Secretary of the Treasury, under the present law, could make such special deposits with the reserve banks, because the 5 per cent redemption fund is now required to be retained in the Treasury Department or the subtreasury. But on that I am not prepared to make any definite statement. The general principle is that the Federal reserve banks already have the power generally to act as fiscal agents, and the only law that is needed to change the present situation is the enactment of some provision specifically

authorizing the Secretary of the Treasury to abolish the present sub-treasuries, and giving him such authority as he may need, as Secretary Leffingwell suggests, to transfer funds to any other qualified depository or fiscal agent.

Mr. PHELAN. If there is any authority in the law now to permit Federal reserve banks to hold trust funds of the Government, is there anything in the law which prevents them from counting those trust funds as part of their reserve?

Mr. HAMLIN. Yes, the section provides that it shall not be counted as assets of the bank.

Mr. PHELAN. In this bill. I am talking about the present law.

Mr. HARRISON. It would not be in the nature of a deposit at all, but purely the relation of bailor and bailee, and funds held by the Federal reserve bank in that capacity would not count as reserve. If, however, there is any question about it, it would be one of the matters of detail to be covered in the act.

Mr. PHELAN. If it is permissible under present law, there is certainly very serious question whether the relation is that of bailor and bailee, is there not? Now it may be that the Secretary of the Treasury has no authority under the law to make these deposits. You said that the Federal reserve banks probably had the power to take them.

Mr. HARRISON. I think that is true—as an authority implied in the right to act as fiscal agents. If one of the means of exercising the power to act as fiscal agents is to take special deposits of ear-marked gold, I think the Federal reserve banks could do so, and I do not think there is any proper construction of the law that would justify counting ear-marked gold as reserve.

Mr. LEFFINGWELL. They can not count anything that they hold as fiscal agents of the United States as their property in any sense whatever. If there is power to carry those trust funds in the reserve banks that power would be strictly limited to carrying it with them as fiscal agents of the United States, and in that case it would not become an asset of the Federal reserve bank in any sense whatever. So I think there exists no such danger as you fear.

Mr. HARDING. I will say, Mr. Chairman, that the Federal reserve banks have already for some years past been earmarking gold for foreign countries and have had gold earmarked in foreign banks for them, and they certainly have earmarked gold for foreign countries. We could do it for our own Government, providing the Secretary of the Treasury had authority to order it done.

Mr. PHELAN. Has that been done by the Treasury Department?

Mr. LEFFINGWELL. No.

The CHAIRMAN. That is where authority is needed.

Mr. LEFFINGWELL. I am not prepared to say whether it is needed or not, but the Treasury never has done it. The Treasury has always, as a matter of policy, held the trust funds in the office of the Treasurer and the Assistant Treasurers.

The CHAIRMAN. Unless there is some objection to that as a matter of policy, there ought to be specific authority in the bill.

Mr. LEFFINGWELL. Subject to the conclusion of counsel as to whether the authority already exists.

The CHAIRMAN. Yes.

Mr. STEVENSON. If the relation, if they were received as special deposits, between the Government and the bank would be merely the relation of bailor and bailee, as stated by Mr. Harrison awhile ago, then what is the liability of the bank? Merely to take care of that fund or to be responsible for it if it is stolen without their negligence or anything of that kind. Now, the bailor and bailee is a very much less rigid rule of liability than that of depositor and depositee. If you are going to legislate on that subject you had better make it pretty clear whether they are going to be responsible as for a deposit or as for a bailment.

Mr. HAMLIN. May I suggest, Mr. Chairman, I think Mr. Curtis, who is general counsel for the New York bank, can enlighten the committee on that question of liability. He has written several very good letters to me about it.

The CHAIRMAN. Do you want to make a statement on that now?

Mr. CURTIS. Well, if you like, Mr. Chairman, or later on, whichever you prefer.

Mr. PHELAN. I want to ask one more question of Mr. Leffingwell. If we don't include section 7 or something like it, do you think there ought to be some provision made for carrying these trust funds in vaults in some interior point in the country? Denver is listed here, but the other three points are on the coast.

Mr. LEFFINGWELL. My suggestion is that you fix up the vault here in Washington. That is one practical thing to do. We have plenty of space now, because we have the vault where we stored the silver dollars.

Mr. PHELAN. The question was once raised as to whether we ought to carry all these trust funds near our seacoast in case of war; whether there ought not to be some interior points where some of the funds were kept. It was with that in mind that I asked the question.

Mr. LEFFINGWELL. I was thinking of Washington as a quasi interior point. It is not feasible to concentrate our gold; it would not be wise, but we must have some seaboard points. The expense of moving back and forth is very considerable. My own impression would be that if we had San Francisco, Denver, Washington, New York and Philadelphia, that would be sufficient, especially if we had space enough somewhere to move coin to in case any one particular point appeared to be a point of danger. That is one reason why I am so earnest about this Washington vault. It seems to me we ought to have some extra space. I look to see the vault capacity of the country strained to its utmost in the course of years, because I think that, when Europe gets on its feet again, gold may begin to flow in here more rapidly than it goes out. At any rate we ought to be prepared to do our banking business on a sound, safe basis.

If you are impressed by what Gov. Harding has said about this matter, my practical suggestion would be that you hear what these gentlemen have to say, and possibly let the Secretary of the Treasury and the board confer with you or a committee of your committee with a view to getting into shape a brief bill which will take care of these problems. I think three or four of us could sit down in a room in an afternoon and reach a conclusion as to what would be a best thing to do. Personally, I am glad to hold myself at your disposal. I think you ought to hear what the gentlemen who represent the

Federal Reserve Bank of New York have to say, and that they will be able to give you a good deal of practical suggestion, but the real question is the one that Gov. Harding outlines: Are you going to keep these banks at arm's length or are you going to try to assimilate them to the old independent treasury system? I think you are in great danger when you pass a bill that goes into so much detail in declaring what the Federal reserve banks shall do. The Government of the United States is undertaking to declare here in detail what the Federal reserve banks shall do, and thus violating the principle that was in view in creating the Federal Reserve System. I don't like to see Congress directing the Federal reserve banks.

The CHAIRMAN. Mr. Jay, we will be glad to hear from you.

STATEMENT OF HON. PIERRE JAY, CHAIRMAN FEDERAL RESERVE BANK, NEW YORK CITY.

Mr. JAY. Mr. Chairman, at your request I came over here with Mr. Curtis, our counsel, and Mr. Higgins, who is our comptroller of cash and custodies, and who, should the work of the subtreasury in New York be transferred to the Federal reserve bank, would have charge of the operations of a good deal of its present work, merely with the idea of answering any questions that you might have to ask us in regard to the working out of this plan and not with any idea of urging that the transfer be made. I feel thoroughly in sympathy with the general idea expressed by Mr. Harding and Mr. Leffingwell, of the maintenance of existing relations between the Treasury and the banks. The Federal reserve banks have always expressed the view that they should not be considered governmental bodies, and during the war many close relations between the Federal reserve banks and the Treasury have all been worked out under two lines of the act which give the Treasury the right to use them as depositaries and as fiscal agents. We have made agreements with the Treasury for the various functions which we have been required to perform. Some of these functions have been done by us as depositary and others as fiscal agent. They have all worked out very well. For some of them we have been reimbursed, and for others not. I haven't any very specific ideas as to the possibility of boiling this bill down into smaller volume, but very likely it might be done.

The CHAIRMAN. Do you think there is anything in Mr. Leffingwell's suggestion that with a bill of so much detail there is some danger of mixing up the independence of the Federal reserve banks with the Treasury?

Mr. JAY. I think the less detail we have, the better. I have not considered that point of view, because it has not been suggested to us before. But it occurred to me that we have done far more work for the Government during the war in relation to liberty bonds, certificates of indebtedness, and many other things than we would do under this bill, and all under an authority which takes about two lines in the law.

Mr. PHELAN. Did you receive any compensation of any kind for that service?

Mr. JAY. No compensation other than reimbursement for a portion of it.

Mr. PHELAN. For a portion?

Mr. JAY. Yes, we have never been reimbursed for the work we did as depository. We have been reimbursed for the work we did as fiscal agent; isn't that correct, Mr. Curtis?

Mr. CURTIS. Not all; almost all.

Mr. PHELAN. That hasn't amounted to anything, because when you get down to the essence of the thing, the member banks have received 6 per cent, and what was earned above that goes either into the reserve or back to the Government, so it hasn't been a question of any importance.

Mr. JAY. No, but it might be in the future.

Mr. PHELAN. If the banks earn less than 6 per cent, then it would be a matter of importance.

Mr. JAY. Yes, sir.

Mr. PHELAN. And there is no provision that the dividends—yes, there is a provision that they shall be cumulative.

Mr. JAY. But I assume that inasmuch as we are doing part of the work as fiscal agent, and part of the work as depository, there is no reason why the Treasury, if it saw fit, and we were able to make a bargain with them, should not reimburse us for some of the expenses we incurred as depository, is there, Mr. Curtis?

Mr. CURTIS. No reason at all.

Mr. JAY. If they are able under the present law without any authority to reimburse us, I don't see why they should not continue to do so.

Mr. PHELAN. But then it depends upon when you are reimbursed. If you are reimbursed when the banks are paying 6 per cent it means nothing; if they waited until the banks were not making 6 per cent, it makes a general reimbursement every month. It is not a question of any importance now.

The CHAIRMAN. You don't think, then that any such clause as the one at the end of section 9 is necessary, "The performance of all such duties and functions by the Federal reserve banks and their branches shall be as fiscal agents of the United States"?

Mr. JAY. That was put in there with the idea, as I understood it, of protecting the banks against certain liabilities.

The CHAIRMAN. It is in here in two places, I think.

Mr. PHELAN. What position is that?

The CHAIRMAN. At the end of section 9, page 4: "The performance of all such duties and functions by the Federal reserve banks and their branches shall be as fiscal agents of the United States."

Mr. JAY. That blanket provision applies to everything. Then there are one or two others where specific things are mentioned, are there not, and I assume that some of these functions in here would be performed as depositories?

The CHAIRMAN. It would seem to me that if the Federal reserve banks are already taking care of 70 per cent of the redemptions that not more than 30 per cent of redemptions would need to be considered for compensation. How about that?

Mr. JAY. That would be hard to put in the law. I suppose that would be a matter of argument with the Treasury Department.

The CHAIRMAN. I mean that the word "hereafter" could be put in, or the word "additional"—"performance of all such additional duties and functions."

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Mr. JAY. Some of the things we do as fiscal agents now I believe we have not been able to get the Government to compensate us for. One of them is the payment of Government coupons.

The CHAIRMAN. I think there is no question that the redemption of minor coin and subsidiary coin should be compensated for.

Mr. PHELAN. Let me ask Mr. Curtis this question, relative to the phrase "fiscal agents." Suppose the Government makes a deposit of money which is now kept in the form of a deposit with the subtreasuries; if all the transactions are to be dealt with on the basis of fiscal agents, can you count anything you get in the way of a deposit as a reserve?

Mr. JAY. Nothing that we get as fiscal agents.

Mr. PHELAN. Then, if you get everything as fiscal agents is that likely to involve this question: That what you get as deposits of funds previously held by subtreasuries can not be counted as part of your reserve?

Mr. JAY. That would seem to me to follow. I am not familiar with the history of this clause that everything should be done as fiscal agents. Mr. Curtis has discussed quite at length, and I should like to ask him if he would speak of it.

The CHAIRMAN. We would be glad to hear you on that point, and one thing we want to bring out is the question of whether the Federal reserve bank—whether this bill fully provides for such compensation as the Federal reserve banks should have for additional duties.

STATEMENT OF MR. J. F. CURTIS, COUNSEL FOR THE FEDERAL RESERVE BANK, NEW YORK CITY.

Mr. CURTIS. Mr. Chairman, while I agree with the essence of what Gov. Harding and Mr. Leffingwell have said, I do not draw all the conclusions that they draw from it. It does not seem to me that this bill in essence violates the principle that has been established. There are some details here that possibly might well be omitted, but there is nothing in the bill that takes away from the Federal Reserve Board the right and duty of supervising all the functions and activities of the Federal reserve banks.

The CHAIRMAN. We would like to hear you on the question of whether their operations with the Treasury can be carried out under such rules and regulations as the Treasury may establish, supervised by the Federal Reserve Board.

Mr. CURTIS. As may be established. Of course, they are not given power under this bill to interfere in any way with the rules that the Secretary of the Treasury may prescribe, but they still retain their power to see that the Federal reserve banks carry on the functions in accordance with law and regulations that are in existence. Possibly that might be put into the bill in order to make it clear, but it doesn't seem to me to be necessary.

Coming down to this question of fiscal agency provisions, I feel that it is wise to have substantially all the functions to be transferred here done in their fiscal agent capacity. I don't see any difficulty at all about arranging their funds which are taken over as fiscal agent shall be kept in one character of account, and at the discretion of the Secretary of the Treasury transferred into the deposit account, into the general fund, if he so chooses and has authority to make

their transfer. I think probably I was responsible for the suggestion of that sentence. I believe that we should make it clear that these functions are being performed by the banks as fiscal agents and not in their depository capacity. In so far as Mr. Leffingwell disagreed with that view, I am not in accord with him. He thought possibly that it should be done as depository, and I think there should be a phrase added concerning the liability—some member has brought it up—of the banks as fiscal agents, and I have drafted an amendment on that.

The CHAIRMAN. Isn't there something in the bill about liability?

Mr. CURTIS. No, sir; there isn't a word on the question of liability they assume, and I have drafted this suggestion which I would like to suggest to the committee:

Add at the end of section 9 after semico'on, "and in the absence of negligence upon the part of such banks, or branches, or officers, or agents, or employees thereof, they shall not be liable for any losses that may be incurred by them in the performance of their duties or functions as that fiscal agent."

It seems to me it should be made plain that the banks will be liable for their own negligence and will not be liable in the absence of negligence.

Mr. STEVENSON. Isn't that the law now? Isn't that exactly the position, that if you act merely as fiscal agents and also to hold special deposits and therefore act as bailee, that if there is not negligence the law is universal that they are not liable for a loss; but if they are negligent, they are liable? Now, why raise any question with that by writing it into the bill, if that is your idea? My idea in raising that question was that we ought to put something in there that they should be liable as depositories, because just the mere absence of negligence will discharge them as the law stands now in every State of the Union that I know of.

Mr. JAY. As fiscal agents?

Mr. STEVENSON. As fiscal agents.

Mr. CURTIS. I wish I were positive on the law as you are, sir.

Mr. STEVENSON. Well, I don't profess to know all the law, but I have tried a great many cases of that kind, and that has been my experience in every jurisdiction I have investigated it in, that a special deposit—the relation of bailor and bailee—whenever it arises and the bailee is not negligent and funds are lost or impaired, the bailee is not responsible if he has used ordinary care, ordinary diligence.

Mr. CURTIS. Well, sir, are you familiar with this fact, which requires great consideration, and that is that the Treasury Department has, ever since its foundation, I believe, considered itself above the law in this regard; that, for instance, to-day you may send in a check through a Federal reserve bank drawn on the Treasurer of the United States, and have it remain in the Treasurer's Office 20 years, and then be sent back as not good, as a forgery, and you will be required by the Treasury to refund the amount of that check, no matter how many years after? Now, that is only one illustration of the fact that the Treasury in its relations does not recognize the general law of liability.

Mr. STEVENSON. In other words, the Treasury, as part of the Government, then assumes to act differently from the ordinary commercial man.

Mr. CURTIS. Exactly; and I am afraid that they would act differently toward the Federal reserve bank, and that is why I want it in this bill, that the banks shall be liable for their negligence and not liable in the absence of it.

Mr. BRAND. You don't say it shall be liable in any case there. You only provide where they are not liable, in the absence of negligence.

Mr. CURTIS. That is perfectly true; but I think any court would say that when there was negligence they would be liable. They would be in common law, anyway.

Mr. BRAND. If that is the case, there is no use to putting that in at all, if they are liable for negligence.

Mr. CURTIS. Because this makes the negative.

Mr. PHELAN. That could easily be overcome by saying they were liable when negligent.

Mr. STEVENSON. To bring it down to a concrete instance, suppose you deposited with them \$1,000,000 in gold, and by incompetence they left it exposed so that it was stolen—they neglected to properly lock the vault—some employee of the bank neglects to put the time lock on, or something of that kind, and it is stolen; now evidently, under the general law, the bank would be responsible, notwithstanding the fact that it is the mere bailee, because it did not take the ordinary care to take care of it. Suppose, on the other hand, that there was an insurrection and they blew up the thing, and took \$1,000,000, though the bank did all it could to protect its funds; it wouldn't be liable then, would it?

Mr. CURTIS. I would like to have it plain in the bill. It would not be liable if the principals were you and me, but I am not clear when the principal is the Treasury Department.

Mr. STEVENSON. There may be something in your position about that. The general principle is it would not be.

Mr. JAY. You say that as an ex-official of the Treasury?

Mr. CURTIS. Yes, sir.

Mr. PHELAN. Now, Mr. Curtis, there has been some talk about these special deposits. Do you think that a Federal reserve bank is obliged under the law to carry a reserve against special deposits?

Mr. CURTIS. No, sir; not any.

Mr. PHELAN. And the Government could deposit with the Federal reserve bank Federal reserve notes amounting to \$1,000,000—

Mr. CURTIS (interposing). In a special deposit.

Mr. PHELAN. In a special deposit, and the Federal reserve bank would not be obliged to keep any reserve against that?

Mr. JAY. No.

Mr. CURTIS. Well, I think—it depends on the character of the deposits.

Mr. PHELAN. My point is that the Federal reserve act says that they have to keep 35 per cent reserve against deposits.

Mr. CURTIS. We hold those deposits as agents of the Treasury Department, and if there is outstanding circulation we have to keep a reserve against them.

Mr. PHELAN. So you do keep a reserve against special deposits?

Mr. JAY. No; a special deposit is kept intact. It is its own 100 per cent reserve.

Mr. PHELAN. Well, suppose you have \$1,000,000 of Federal reserve notes; Federal reserve notes can't be used as reserve.

Mr. JAY. No; but no question of reserve arises when a special deposit is made, because that special deposit is held intact. You deposit it with us and we hold that particular deposit right there just as it is, and we give it back to you just as it is. It never changes its character.

Mr. PHELAN. Then when the Federal reserve act says that a certain reserve has to be kept against deposits that would be interpreted, according to your statement, that that does not apply to special deposits?

Mr. JAY. No, sir.

Mr. PHELAN. I wonder if there is any authority of law for that.

Mr. JAY. I think there must be.

The CHAIRMAN. There may be a question there, because you might have to give back the special deposit intact, and also have a reserve besides. That is, it might count, as the law stands, in the general reserve fund.

Mr. CURTIS. No; I don't think so.

Mr. PHELAN. Well, Mr. Jay, let me call to your mind—you say you have been doing it; we made provision in the law as to the deposit of Government funds in Federal reserve banks, in which we let down the reserve requirements, you will recollect. I don't know when we did it, but it was done. Wasn't there some provision in the law about that?

Mr. JAY. You decreased the reserves of member banks.

Mr. STEVENSON. And required them to carry them with Federal reserve banks.

Mr. JAY. Yes, sir; but as I understand it we receive special deposits as an incident of our banking business, don't we, Mr. Curtis, not because the power is specifically given us in the law to receive special deposits?

Mr. PHELAN. Then when you make your statement, you show deposits of various kinds?

Mr. JAY. Yes, sir.

Mr. PHELAN. Individual deposits, etc.?

Mr. JAY. Yes, sir.

Mr. PHELAN. And when you reckon your reserve and make the statement to the public as to your reserve, you include, in writing up your percentages—you exclude all special deposits?

Mr. JAY. Yes; we don't show those in our statement at all.

Mr. PHELAN. They are not shown in any statement?

Mr. JAY. No, sir.

Mr. STEVENSON. Neither as assets or liabilities?

Mr. JAY. No, sir; they are simply held there as special deposits.

Mr. STEVENSON. Just as if they were a box of diamonds in your hands and put them in the safe, and you don't have any record of them in your report?

Mr. JAY. They don't come in at all.

The CHAIRMAN. Mr. Jay, the New York Federal Reserve bank being located near the largest subtreasury, will naturally do the largest part of the business if the subtreasuries are abolished.

Mr. JAY. I suppose the business in the New York subtreasury is larger than any other one. That naturally would be turned over to us.

The CHAIRMAN. Now will the Federal reserve bank in New York receive any particular benefit from extra deposits by the abolition of

the subtreasuries? Of course, now the Government is borrowing money and is paying interest on the money now in the subtreasuries for working capital, practically, so that none of that money will come into Federal reserve banks for any length of time, but in normal times wouldn't a considerable amount of money come in from which the Federal reserve banks would benefit?

Mr. JAY. I should say that in normal times the money that was kept in the subtreasuries was not such as was available for use in our business. Am I correct, Mr. Higgins, in thinking that it is largely the currency in the course of redemption and that they have to keep a stock on hand of minor and subsidiary coins to make exchanges?

Mr. HIGGINS. I think so, and I think that most of that would be money that would be included in the fiscal agency function; that it would not come in our assets or resources; would not affect our general cash position at all.

Now the New York City banks, instead of putting their out-of-town checks in the Federal reserve bank, send them to their out-of-town correspondent; on the other hand the out-of-town correspondent who gets checks on New York puts them through their Federal reserve bank, so we are always a creditor at the clearing house. The checks just go around in a circle.

The CHAIRMAN. Before the war, however, there was often a big surplus of Government money on hand which was largely in the subtreasuries.

Mr. JAY. At times.

The CHAIRMAN. And with the subtreasury abolished, that money would come into the Federal reserve bank, wouldn't it, unless it was placed in national banks?

Mr. JAY. I think so.

Mr. HIGGINS. But wouldn't that come under the redemption exchange, the fiscal agency function?

The CHAIRMAN. I think not. I think it would be surplus money collected from customs, internal revenue, or anything else, accumulating in the subtreasury perhaps.

Mr. JAY. I think part of that, Mr. Higgins, would be received by us in our depositary functions, credited to the treasury's general account.

The CHAIRMAN. I think Mr. Hand could tell us something about that work.

Mr. HAND. The funds not kept in the subtreasuries for the use of making current daily disbursements would automatically be transferred to the Federal reserve banks, but it would not necessarily increase the amount of deposits in the Federal Reserve banks, except maybe for a few days. We would let it stay there until it was used up, and we would simply withdraw that much less from time to time from funds on deposit with special depositories to meet the current needs of the Government for expenditures. It would not be any particular benefit to the Federal Reserve bank more than a few days.

The CHAIRMAN. Of course, at the present time the Government is borrowing money and is behind all the time, but suppose the normal times were restored, doesn't a surplus accumulate in the subtreasuries?

Mr. HAND. I see your point, It would depend upon the policy of the Government then as to whether it would maintain those deposits now kept in the subtreasuries, in the Federal reserve banks, or else put them out on deposit with the national banks.

Mr. JAY. That is just the same old question that always did arise.

Mr. HAND. Of course it would be better to have them in the Federal reserve banks than in the subtreasuries, because in the Federal reserve bank they are the basis of credit; in the subtreasuries they are doing no one any good so far as an excess over current needs is kept therein.

Mr. MCFADDEN. Is it the custom now of Federal reserve banks to accept special deposits?

Mr. JAY. Only for foreign Governments and foreign banks.

Mr. MCFADDEN. And that is held as a special fund and it is not printed in the report?

Mr. JAY. It does not appear in our report.

Mr. PHELAN. And that is segregated?

Mr. JAY. It is segregated, yes.

Mr. PHELAN. And you take the exact funds deposited and keep them separate?

Mr. JAY. Yes, sir.

Mr. PHELAN. And when ordered to pay out, you pay out of that segregated fund?

Mr. JAY. Yes.

Mr. MCFADDEN. Is there any security given those foreign Governments?

Mr. JAY. It has nearly always been gold, and we hold the actual gold for them. They trust us to keep it safely.

Mr. MCFADDEN. Does the law permit you to receive a trust fund from an individual or corporation in the United States?

Mr. JAY. No, sir.

Mr. MCFADDEN. So that your special funds, then, are confined to deposits of foreign Governments?

Mr. JAY. Deposits of foreign Governments and foreign banks with whom we have agency relations. The law permits us to establish agencies among the foreign banks.

Mr. MCFADDEN. Is that quite some item?

Mr. JAY. It has been considerable of an item, but I think at the present time it is very small, is it not, Mr. Higgins?

Mr. HIGGINS. It is under \$10,000,000 now.

Mr. MCFADDEN. How high did it run during the war?

Mr. HIGGINS. I think it got up to \$80,000,000 at one time.

Mr. MCFADDEN. Now just one other question in that connection; is it necessary to hold that in a trust fund because of the demand of foreign Governments?

Mr. JAY. They want to have it held in that way, ear-marked for them. They wanted us to hold the gold ear-marked in order that they might issue currency against it in their country, and also save the shipping cost and risk for the time being; but the reason they wanted it ear-marked particularly was so that they might know that that gold was there, and was theirs, and that they were not merely one of the creditors of the Federal reserve bank. They had that specific gold to issue currency against.

Mr. McFADDEN. Not because of lack of confidence that they might have in the Federal reserve system?

Mr. JAY. No; just a natural precaution. We have gold ear-marked in the Bank of England; some of that which we received from Germany.

Mr. STEVENSON. Do you get any compensation for assuming that responsibility at all?

Mr. JAY. Generally not. In one case we did get a small compensation.

Mr. PHELAN. Now if all the Government deposits which will be transferred under this bill proposed are held as special deposits, you won't get the benefit that you get ordinarily from deposits in the transaction of your business. It won't in any way increase the amount of credits?

Mr. JAY. No.

Mr. STEVENSON. Which the banks may give?

Mr. JAY. It will be just exactly as if they were held in the subtreasuries, if they are held as special funds. But I think that a good part of them, don't you, Mr. Hand—would come in as credits to the Treasury's general account—

Mr. HAND. Yes.

Mr. JAY. And therefore would go into that account.

Mr. PHELAN. In which case you would have to hold a reserve against it?

Mr. JAY. We would have to withhold a reserve against it; yes.

Mr. PHELAN. And in which case you could use those funds, if made up of the proper kind of money, as reserve.

Mr. HAND. As part of the reserve; yes, sir.

Mr. PHELAN. And hence if there was a sufficient amount of them it would increase your power to grant credit?

Mr. JAY. Yes, sir.

The CHAIRMAN. There is one question I want to ask you, Mr. Jay, and that is in regard to the item here about rent of subtreasuries in case they are turned over to the Federal reserve banks, temporarily or permanently. Of course, the historic old building in New York ought to be preserved.

Mr. JAY. Yes.

The CHAIRMAN. Now, if you were given the use of that building rent free, wouldn't that be a pretty large item of compensation?

Mr. JAY. We could use it for certain functions. It has quite large vaults in the basement.

The CHAIRMAN. Are they good modern vaults?

Mr. JAY. Some of them are, are they not, Mr. Higgins?

Mr. HIGGINS. There is not very much that is modern. They are using the corridors for their gold bullion. There is nearly a billion dollars of it stored right in the corridors in the basement. But there are some good vaults there.

The CHAIRMAN. Well, if the subtreasury were abolished within a comparatively short time, it would be absolutely necessary to turn the building over to the Federal reserve bank, would it not?

Mr. JAY. It would be essential. We could not possibly have our own building ready for two or three years. There is nowhere else that we could handle the coin business very satisfactorily, and I should hope that we could maintain the building largely as a coin department over there and keep it in use in that way.

The CHAIRMAN. Wouldn't it be necessary to have in this bill then, some authority for the Secretary of the Treasury to make special deposits in order to take care of what is there, supposing that authority does not already exist?

Mr. JAY. If it does not exist any where, I think it would be a very desirable thing to have it, would it not, Mr. Curtis?

Mr. CURTIS. Yes. I rather thought that section 7 was a valuable section to have in. My own impression was that I would include silver there; authorize the Secretary to make special deposits of gold coin, gold bullion, silver coin, and silver bullion.

The CHAIRMAN. I am glad you mentioned that. I noticed that omission when I read the bill over and was going to ask that very question.

Mr. CURTIS. I would suggest Mr. Chairman this addition after the word "deposits" the words "of a character authorized by law." In other words if you leave section 7 alone as it is now to my mind it is so broad that it authorized the Secretary to set up a special deposit in the Federal reserve bank in New York for a fund to celebrate the three hundredth anniversary of the Declaration of Independence; if you tie him down there by the phrase "of a character authorized by law," then he gets no additional powers to set up special deposits in the reserve banks or powers that he now has to set them up somewhere. In other words the character of the deposits will not be increased, but simply his power to put it in a reserve bank. I think that is a wise provision. I am not sure that I would not make it clear by saying so in terms that it covers trust funds.

The CHAIRMAN. It would seem to me that if this section 7 does cover trust funds—and I don't see any object of its being there if it does not—there is nothing else that it does cover—it ought to say so.

Mr. JAY. Doesn't that rather negative section 2 then, because there it provides for funds deposited only in the mints and assay offices.

The CHAIRMAN. There may be an inconsistency there.

Mr. CURTIS. No, it struck me as I was going over the bill that sections 2, 3, and 4 provided for what should be done at the time the transfer of functions took place. Section 2 provided about trust funds, where they should go; section 3 provided for Federal currency; section 4 provided for silver and minor coins. Then the next three sections—or rather sections 5, 6, and 7—provided as to what shall be done later on, and 5 and 7 gives the Secretary of the Treasury very broad powers as to how he shall have the functions performed that heretofore have been performed by the subtreasuries. To my mind, as I say, sections 2, 3, and 4, were simply detail provisions concerning the actual physical transfer of the things that were in the subtreasuries at the time the transfers were made, and then the other provisions follow. Now, I would agree with Mr. Leffingwell this far, that I think 2, 3, and 4, might all be put into one section with the statement that the Secretary of the Treasury shall arrange with the Federal reserve banks as to how these transfers, physical transfers, shall be made, etc. It seems to me that you could consolidate that and leave it very much simplified over this.

Mr. JAY. And where kept?

Mr. CURTIS. And where kept, yes.

The CHAIRMAN. Is there any particular disadvantage in these details? Of course when you get a lot of details I suppose you are

likely to have something in it that ought not to be there, or leave out something that ought to be in.

Mr. CURTIS. My own personal opinion is that there is no disadvantage in it. I don't see any objection to them.

Mr. PHELAN. The question was raised in the committee, Mr. Curtis, about those three sections, as to what provision was made for gold and silver coin which was not being held in the subtreasuries as a trust fund. You provide for the gold and silver and bullion that is held for trust purposes, you provide for paper currency and subsidiary coinage; now what did you intend should be done with the gold and silver that did not come under any one of those heads?

Mr. CURTIS. I assumed the Secretary of the Treasury with respect to those would transfer them to his general account to the Federal reserve banks. It doesn't require him to do so, but of course he is at liberty to do so at any time.

Mr. PHELAN. What about paper currency in section 3?

Mr. CURTIS. That is with respect to redemptions, I assume, mutilated and unfit currency—stuff on hand for those purposes.

Mr. PHELAN. It doesn't say that; it says Federal reserve notes—perfectly good bank notes.

The CHAIRMAN. I suppose at the present time there is no gold in the possession of the subtreasury which is not in the trust funds, but in normal times there often is, isn't there?

Mr. CURTIS. Certainly there may be.

Mr. PHELAN. I don't see how there can help be.

Mr. HAND. There is no appreciable amount of free gold now.

The CHAIRMAN. Isn't there in normal times? Suppose there is a lot of gold being imported into this country in commercial transactions and customs being paid, wouldn't there be free gold in the Treasury?

Mr. HAND. There might be if it was not immediately redeposited by the Treasury in Federal reserve banks, but I should think that would be a normal course.

The CHAIRMAN. But this bill seems to specifically provide for the deposits in Federal reserve banks of subsidiary coin and paper currency, and it doesn't say anything about gold. I don't know whether the omission means anything.

Mr. HAND. At the present time, as fast as there are any accumulations of free gold in the Treasury it is immediately redeposited in the Federal reserve banks, so that there is no appreciable amount that is free.

Mr. PHELAN. If you can do that, why can't you transfer paper currency without any authority in this bill at all?

Mr. HAND. We can; there is no question about it.

Mr. PHELAN. So that giving authority doesn't give you any authority that does not already exist?

Mr. HAND. No, the only thing about it was that as long as you are covering the subject it goes to show that you have made a complete provision covering every contingency that could be anticipated.

Mr. STRONG. Mr. Chairman, if the buildings of these subtreasuries are to be maintained for the use of the Federal reserve banks, there will be but very little actual saving in this proposition to the Government, will there not?

The CHAIRMAN. The big saving, as Mr. Leffingwell pointed out, is that there are about \$50,000,000 in the subtreasuries as working capital, and that can be immediately checked out to pay Government expenses, and save more than \$2,000,000 a year in interest, because the money is being borrowed now to keep in the public treasury. Then there will be a saving, I think Mr. Hand said, of some part of the \$600,000 in contingent expenses.

Mr. HAND. \$600,000 all together. Four hundred and seventy thousand dollars for salaries, and \$190,000 for contingent expenses, which makes \$660,000 odd as the total amount of the appropriations for the subtreasuries.

The CHAIRMAN. Of course of the salaries that could not all be saved, but the assistant treasurers' salaries, amounting to \$50,000, can be saved, and a considerable part of the contingent expense and other salaries.

Mr. HAND. Four hundred and seventy odd thousand dollars in all is appropriated for salaries in the subtreasuries.

The CHAIRMAN. There is a big saving in the saving in the interest on \$50,000,000.

Mr. DALE. Don't you save all the salaries, because in the transfer of these men to other departments they take the places of men who have to be employed in these other departments, and ultimately you do save all the salaries?

The CHAIRMAN. Why isn't that so, Mr. Hand? Why wouldn't we save all the salaries?

Mr. HAND. Well, if the Federal reserve banks are going to be compensated for the performance of these duties as fiscal agents they are going to employ their own people to do it, and if we have to reimburse them we will have to pay them the same money back.

The CHAIRMAN. So far as these employees of the Federal reserve banks are concerned, but I presume the Federal reserve banks would not need the full force.

Mr. JAY. Possibly they are doing a good many of these things now.

The CHAIRMAN. They are taking care of 70 per cent of the redemptions of worn-out currency already, and it wouldn't take any great amount of extra force to take on the other 30 per cent. When it comes to the subsidiary coin I don't know how much there would be.

Mr. HAND. There would be some saving, but just to what extent it is rather hard to estimate. Federal reserve banks as a general proposition pay higher salaries to their employees than the Government does, and that would offset it to some extent.

Mr. CURTIS. I have some suggestions here, Mr. Chairman, on various points, not all of which are necessarily the suggestions of the Federal reserve bank of New York. They are some thoughts of my own.

The CHAIRMAN. We shall be very glad to have them.

Mr. CURTIS. On the question of compensation I have suggested this—and I will leave it to the committee if you care to have it [reading]:

The Federal reserve banks shall receive for their services rendered as fiscal agents of the United States reasonable compensation to be fixed by the Secretary of the Treasury. Such compensation shall be paid semiannually out of any money not otherwise appropriated, and the rate of such compensation may be adjusted from time to time by the Secretary of the Treasury, provided that the Federal reserve bank of New York and the Federal reserve bank of San Francisco shall be permitted to occupy and use the subtreasury buildings located in the said cities, rent free in

lieu of all such compensation, until otherwise ordered by Congress upon the recommendation of the Secretary of the Treasury, and there is hereby appropriated out of funds not otherwise appropriated an amount sufficient to pay such compensation.

Now, if you are going into the question of compensation, I think that clause covers the points that have been brought out here as to whether or not the use of the two buildings that are solely used as subtreasuries by the reserve banks at New York and San Francisco might not be taken in lieu of every other compensation.

The CHAIRMAN. Mr. Hamlin suggested to me that I should ask you that question. I should think that was a very good suggestion.

Mr. CURTIS. I don't see why that would not be a good plan. It is a rough-and-ready rule of thumb really, but I feel that the Federal reserve banks ought to be compensated for the services they render, whether they render them to member banks or to the Government, and this would leave it to the Secretary of the Treasury to adjust compensation from time to time, but would also take out from that situation the only two cities where the subtreasuries are department buildings and not in general Federal buildings.

Mr. PHELAN. That is, in New York and San Francisco, the Federal reserve banks would receive no compensation at all?

Mr. CURTIS. Other than the use of the treasury buildings rent free.

The CHAIRMAN. How would that come out as a Government proposition, Mr. Hand, leaving those buildings rent free? Could you form any estimate of whether that would be larger compensation than it would be otherwise, or lower?

Mr. HAND. It is rather hard to state. Especially in New York it would be quite a considerable item, but if it is not done in that way the public buildings in both New York and San Francisco will be turned over for the use of other public offices there, so the Government will really get no compensation out of it in the long run. Both of those buildings ordinarily would be used as Federal buildings.

Mr. PHELAN. The Government would save on that which would indirectly be earnings, because they are paying rent now for some other places, and these places would be used in place of those now being rented.

Mr. JAY. I think, Mr. Chairman, that as Mr. Curtis has drawn this, it would do away with the compensation or the reimbursement that the Federal reserve banks are now getting for all of their Liberty loan certificates work, etc. I think that all would be thrown in as an offset to the use of the subtreasury building.

Mr. PHELAN. The Government would certainly make money at New York and San Francisco on that arrangement, because at the present time the Government is using those buildings and paying all the employees. Now, under Mr. Curtis's proposed amendment the Government would be charged only for the use of that building, the Federal reserve bank in New York and the Federal reserve bank in San Francisco assuming all the expense of the employees necessary, so that in those two places the Government certainly would save money on that, particularly in San Francisco.

Mr. JAY. As I read Mr. Curtis's suggestion here, it strikes me that the Government would be relieved of paying the sum that they are now paying for our present fiscal agency work.

Mr. CURTIS. Yes; my intention was to have this section broad enough so that with respect to all Federal reserve banks they got

compensation for all fiscal agency functions, whether they are now performing them or whether they are new ones to be taken over; but that in these two cases, New York and San Francisco, instead of that compensation they would receive their buildings rent free.

Mr. JAY. That would be pretty expensive rent for the bank in New York to pay, wouldn't it, Mr. Higgins? We must be getting back several hundred thousand dollars a year, if not over a million.

Mr. HIGGINS. I think in the third and fourth and fifth loans the expenses were very close to a million—yes, probably well over a million.

Mr. JAY. Yes, I think they were probably over a million dollars.

Mr. HIGGINS. That is the total amount that we were reimbursed by the Government.

Mr. JAY. Not for selling, but just for the agency work.

Mr. HIGGINS. Yes, the fiscal agency operations.

The CHAIRMAN. A good deal of that work would become less hereafter, wouldn't it?

Mr. JAY. It doesn't seem to. The coupon work, the exchanges of bonds from one denomination to another, the exchanges of temporary bonds, the conversions of one kind and another seem to keep up the work, and it looks as if it would keep up for some time.

Mr. HIGGINS. We are so crowded in vaults that we haven't room to put them. We have 5,000,000 pieces coming in now, and 800,000 pieces have been counted and stored away, and we have to borrow the clearing house vaults. We have two-thirds of the clearing house vault's space, and we would have to have more vault space. We are borrowing some space now in the subtreasury of New York in order to find space to put all that stuff.

The CHAIRMAN. You think, then, that it would be rather expensive rent?

Mr. JAY. I think it would be very expensive rent.

The CHAIRMAN. If we make that broad enough to cover all of it.

Mr. CURTIS. Mr. Chairman, I think the suggestion might be made that in case of New York and San Francisco a credit for a fair value of the rental of the building should be made as against the compensation otherwise payable, so that you could still have your reasonable compensation for all the functions, and then as a set off the fair estimated rental of these buildings.

Mr. PHELAN. Mr. Curtis, if they use the subtreasury for nothing but Government purposes—as I presume that is what the Federal reserve bank would do—why bring the question of rent of that building in at all? Why not simply reimburse the New York bank, just as we reimburse the others, the difference being that in other cases Federal reserve banks may be entitled to something for the space occupied for Government business, whereas in New York nothing would be paid. In other words, if we used a private building as you would use the subtreasury, you would compensate the Federal reserve bank for the rent paid for that building; now since the Federal reserve bank pays nothing for the rent of that building in New York, there is nothing to be charged to either side of the ledger; simply pay the Federal reserve bank for what it cost them to handle this business. That seems to me to be the scientific way. I don't know that it is essential, of course, but that seems to be the mathematical way to do it.

Mr. CURTIS. My only objection to that would be that I think the reserve banks should be paid for what they do, and they should pay for what they get. Now I think you ought to pay them the compensation for exercising these functions for the Government; on the other hand, I think they ought to pay rental for such buildings as the Government lets them use.

Mr. PHELAN. All right, we will do that; we will charge them so much rental for that building. Now they will charge back, if they use it solely for Government purposes, the same amount of rental and be entitled to get it. So one offsets the other. The only provision I would put in if I were going to do it on the mathematical basis would be to charge the Federal reserve bank for what use it made of that building for purposes other than Government purposes; then let the rest offset itself.

The CHAIRMAN. Now outside of New York and Chicago and San Francisco the other subtreasuries don't amount to very much. I suppose there wouldn't be—whatever benefit may come from *extra* deposits from Federal reserve banks would be in those three cities?

Mr. CURTIS. I should think so. I am not familiar with them all. Boston might be pretty large.

Mr. HAND. There would not be any material benefits come to any of them, because under the scheme outlined only one subtreasury is to be abolished at a time, and if it takes, say, 30 days to take care of all that, from the time it was abolished the transactions would have been so gradual that the funds would be so gradually absorbed until it would really not be felt in the system as a whole. Then another subtreasury would be taken up, don't you see, and the discontinuances would take place gradually, on account of the extreme care with which the funds are to be handled and disposed of.

The CHAIRMAN. I said "benefit;" I was thinking perhaps more of compensation. Whatever compensation is to be paid under this bill as drawn would be mostly to subtreasuries in the larger cities, wouldn't it, New York, Chicago, Boston, and Philadelphia?

Mr. HAND. Yes, sir.

The CHAIRMAN. And San Francisco. The smaller subtreasuries, like New Orleans and Baltimore, don't do enough business so that the Federal reserve bank would know they had it transferred to them.

Mr. HAND. No, sir; New York, Chicago, and San Francisco are probably the three main points in the order named.

Mr. PHELAN. We have taken up this thing sort of back end foremost, I think. I suppose we should first have found out from the Treasury officials what the subtreasuries do, but, Mr. Jay, don't you expect if this bill goes through that you will hold considerable Government deposits all the time?

Mr. JAY. No, sir; no more than we hold now, because I think the Government, out of any additional deposits which it creates from the deposit of this currency or coin, will draw it down to a minimum, because the Government is borrowing all the time, and naturally keeps its balances fairly low. Isn't that so, Mr. Hand?

Mr. HAND. Yes, sir.

The CHAIRMAN. So long as the Government is borrowing, which will be for the next 50 years, it will be true, but if there should come such a time again as there was a few years ago, when the Government constantly had a surplus on hand, then the condition might be different.

Mr. JAY. Then, there might be surplus funds and deposits in the Federal reserve bank, and if those got too heavy and became restrictive of commerce the Treasury might consider, as it did in the past, putting them out in the national banks.

Mr. PHELAN. Well, you have in mind now what, special deposits?

Mr. JAY. No, general deposits; deposits arising out of customs and various other things—internal revenue—which in times past have piled up very seriously, and 12 or 15 years ago when things got very tight the Secretary of the Treasury would make deposits, don't you remember, and "save the situation."

The CHAIRMAN. That was always being done back in times as late as 1907. It was quite an important factor in 1907. The Secretary of the Treasury took so much money out of the subtreasuries and deposited it in the New York banks, thereby creating a lot of criticism that he was aiding Wall Street, or something of that sort, though the money ought never to have been locked up in the subtreasury.

Mr. CURTIS. I think in 1914 Mr. McAdoo reversed that deposit.

Mr. PHELAN. Now, Mr. Curtis, you don't see any objections to section 7 as it has been interpreted here?

Mr. CURTIS. No, sir; I do not.

Mr. PHELAN. That is, the Government has certain trust funds. You see no objection to the Government transferring the custody of those trust funds?

Mr. CURTIS. No, sir; as section 7 is drawn it provides that they shall be held in a separate vault or locked compartment, and in the joint custody of the Federal reserve agent and the Federal reserve bank. The Federal reserve agent is a Government official.

Personally, frankly, I feel that they would be safer there than in any vault that the Government owns, so far as I am acquainted with them. I used to be in the Treasury, and I can add my testimony to what Gov. Harding and Mr. Leffingwell have said, that it is in very bad condition.

The CHAIRMAN. Now, could we get a few concrete recommendations for amendments, because, as I say, I don't know that the Appropriations Committee will take this out of our hands, but they would like to have this bill reported out if possible, and I would like to have it reported out if it can be done in proper form. I may perhaps offer it as an amendment myself to the legislative, executive, and judicial appropriation bill.

Mr. CURTIS. I have some other suggestions here, Mr. Chairman. They are not very long.

On the question of giving the Federal reserve banks the power of eminent domain, to condemn property, Mr. Leffingwell suggests that it would be unwise because it would tend to indicate that they were part of the Government or had Government functions. My own view is—I don't know how far this is concurred in by the officers of the reserve bank in New York. I think Mr. Jay concurred in it.

Mr. JAY. I did, but I am not sure that I concur now. Mr. Leffingwell introduced a new thought that had not been presented to me before.

Mr. CURTIS. Gov. Strong before he went out West did concur in this view that they should have it. Of course the situation in New York is that the reserve bank there has been held up by one small

end of the whole block, the balance of which has been bought by the bank, and that was holding the bank up and they wanted to get this power in order to not be held up; so I drafted a plan at the suggestion of Gov. Strong to this effect, to add a new section as follows:

The Federal reserve banks shall receive for their services rendered as fiscal agents of the United States reasonable compensation to be fixed by the Secretary of the Treasury. Such compensation shall be paid semiannually out of any money not otherwise appropriated and the rate of such compensation may be adjusted from time to time by the Secretary of the Treasury: *Provided*, That the Federal reserve bank of New York and the Federal reserve bank of San Francisco shall be permitted to occupy and use the subtreasury buildings located in the said cities, rent free in lieu of all such compensation, until otherwise ordered by Congress upon the recommendation of the Secretary of the Treasury, and there is hereby appropriated out of funds not otherwise appropriated an amount sufficient to pay such compensation.

The Federal reserve banks are hereby authorized to acquire real estate for their head offices or branches by condemnation proceedings which shall be conducted in accordance with the provisions of law governing the condemnation of real estate by the Secretary of the Treasury for public purposes: *Provided*, That the proceedings shall be instituted by the Federal reserve banks in their own behalf and the compensation for the property condemned shall be paid by the Federal reserve banks.

That proviso is suggested because under the Secretary of the Treasury the proceedings are instituted by the Attorney General, and naturally they are paid for out of the Treasury funds.

Mr. PHELAN. Now, Mr. Curtis, why should that power be granted to Federal reserve banks any more than it should be granted to national banks?

Mr. CURTIS. Well, because the Federal reserve banks after all are conducting a far more public business than a national bank is. I don't think there is any question about that when you stop to consider what they have done and are doing.

Mr. DALE. The quantity is different, but the principle is absolutely the same.

Mr. PHELAN. I meant the principle.

Mr. CURTIS. Well, I wouldn't quite agree that the principle is absolutely the same. I think the Federal reserve banks have more governmental aspects and less aspects of corporations created for private gain than the national banks have. There isn't one Federal reserve bank that is created for private gain; they are all doing a great piece of work, first for the benefit of the banking situation as a whole, and partly for the benefit of the Government, and I think that it would not only be wise to give them this power of eminent domain and improve the New York situation specifically and any others that may arise, but I have no doubt that the Constitution—I spent some time in looking it up and put it in the hands of a lawyer to have it looked up, and I think the reserve banks are so clearly engaged in a business of public interest that the constitutionality of it would be sustained.

Mr. JAY. Of course, there are three directors in each Federal reserve bank appointed by a governmental body, which makes them somewhat different from national banks.

The CHAIRMAN. They are not exactly on the same footing, but still we do regard them as private institutions.

Mr. JAY. Yes.

Mr. CURTIS. That is true, but then there have been plenty of legislative enactments granting powers of eminent domain to private in-

stitutions which are exercising semipublic functions, railroads and street railroads, and a great many others.

Mr. PHELAN. They more nearly approach public institutions from the fact that their dividends of member banks are limited to 6 per cent. than they otherwise would, do they not?

Mr. CURTIS. Well, I wouldn't say that that was a very decisive factor. It is a factor, but it seems to me that the whole reason for the establishment of the Federal reserve bank was more for the public benefit, not for the private gain of anybody in particular, and I should feel, while, of course, they are both organized under acts of Congress, that it was a pretty broad distinction between them and national banks, which are organized primarily for gain and only secondarily to be of assistance to the Government, because the Government can call on them to appoint them fiscal agents, but the purpose of the organization of national banks is not strictly for public benefit.

Mr. PHELAN. I think you have embraced what I had in mind, but there is another class to be considered besides the banks and the Government, and that is the general public. The Federal reserve bank, for instance, takes care of the business, the commerce, and agriculture of the country, as distinct from the Government or from the banks.

Mr. CURTIS. Yes, I think that is in the heading of the bill, to provide an elastic currency to look after the commerce and industry, etc., of the country.

The CHAIRMAN. You have some further amendments to suggest?

Mr. CURTIS. Yes; I had a suggestion to add to section 9, or make a new section—this provision concerning checks and warrants that now can be sent back by the Treasurer of the United States so long after they should have been considered dead:

No check, draft, warrant, or instrument drawn or purporting to have been drawn against funds of the United States shall be deemed to have been paid until it shall have been presented to and entered upon the books of the Treasurer of the United States.

Now, the situation that lies behind my desire to suggest this sentence is as follows: The Treasurer of the United States has claimed for, I believe 20 or 30 years anyway, the right to send back any check or warrant at any time, no matter how many years after it has been apparently paid by the Treasury Department. That right has been contested by the banks of the country, and in every case, I think, in which they have gone to court the position of the Treasurer has not been sustained by the courts. There is to-day an appeal taken, from a recent case, in which the district court of the United States decided against the Treasurer. He has taken an appeal to the circuit court of appeals. When that will be heard, I don't know. The Federal reserve banks, when they took over the business of receiving Government checks and warrants in behalf of the Treasury, put in their circulars a statement to this effect: That the Treasurer of the United States has always maintained the right to return checks at any time and for any reason, and that the Federal Reserve Bank of New York will make it a condition of receiving such Government checks and warrants that it shall have the right likewise to return to its depositor any check at any time for any reason.

Well, here is the situation that has actually arisen in New York: Q paymaster in the Army forged some checks. They went through

some of the New York banks and finally came to the reserve bank. We credited the New York bank's account, sent it down to the Treasury, and after a good many months the Treasury said: "That is a forgery," and sent it back to us and charged it to our account. We sent it back to the bank from which we had received it and charged their account. They protested that it was an unreasonable length of time, and under all rules of law they were not liable to have it charged back to them. I pulled out our circular and showed them the provision making it not a matter of ordinary law, but a matter of contract; that we only received it subject to the right of charging it back, and they replied that they had never received our circular. So there we were, and we are still discussing it; it is still pending. But there should be a point of time before which the checks or drafts are not considered paid for the protection of the reserve banks. In other words, I don't want it possible that a person can bring in a draft or warrant and have it cashed and the reserve bank not know that it is paid finally and all question of forgery and propriety of it ended. On the other hand, there should also be a point of time after which the Treasury can not send it back. The Treasury ought not to try to do these things that are improper from a business point of view, in my opinion.

The CHAIRMAN. I think that is true.

Mr. HAND. Sometimes in cases of forgery the signature is such a good imitation that we have had cases where when it was presented to the drawer of the check he would be deceived himself, and we can't detect things of that kind immediately. Then again, the the Treasury has been handicapped by having to put \$900 or \$1,000 employees on the examination of signatures of checks, because we couldn't get sufficient appropriations for a higher grade of employees.

The CHAIRMAN. Even with that you ought to be able to detect forgeries inside of a reasonable length of time.

Mr. HAND. It never would be detected until the claim got to the auditor unless the disbursing officer reported that the check has not been issued.

The CHAIRMAN. Why shouldn't it get to the owner more promptly?

Mr. HAND. The statement of disbursing officers' accounts made up at the end of each month is sent to the disbursing officer to be checked and verified with his statement of checks actually drawn by him, and if he will verify it immediately and send the notification back, then it is discovered at that time, but suppose a check that has been forged gets into the Treasury and is passed on the 5th or 6th of the month; it waits until about the 5th of next month before the statement of the disbursing officer is made out; then it is sent to him and it takes three or four days to get to him, so by the time his report gets to the Treasury practically two months have passed before it is found that that is a forged check.

Now, in the case of forged indorsements there is no way for the department to check those until a claim is made by the proper payee that they did not receive the money, and we just have to wait. We assume that the bank that pays the checks has exercised ordinary commercial precautions and has paid it to the rightful party. Now, if they have not done that and the rightful payee has not received his money, there is no way for the Treasury to find it out until the rightful payee puts in his claim and states that he is the rightful

payee, and generally he is two or three or four months putting in such a claim. So the Government is really not justly chargeable for a lot of this delay. It arises from different causes than the ordinary commercial transaction.

Mr. HIGGINS. I think in the case of forged indorsement it is the commercial practice now to have those checks very often returned months afterwards, and that is customary, but in the case of a forged signature it is a different thing.

Mr. CURTIS. I may say that the draft that I made is not aimed at forged indorsements.

Mr. HAND. As to forged signatures of the drawers of checks, there are very few of those that get by the Treasury Department in the first case.

Mr. HIGGINS. We had one the other day where they stopped payment on a \$50,000 check. This was returned two months afterwards and they stopped payment, and the member bank in the New York district promptly notified us that they were going to contest it by suit.

Mr. HAND. I know, but you know a stop payment order is merely a request; there is no specific legal penalty for not enforcing a stop payment request.

Mr. HIGGINS. I mean to say that checks drawn to the Treasury were returned to us by the Treasury two months after they were presumed to have been paid, and our bank which deposited that check objected formally and said that they were going to bring suit. Meantime all the trouble was relieved by the bank, the Florida agency of the drawer, I think it was some Government body, withdrawing the stop payment order so the check came back through and relieved the suspense.

Mr. HAND. We have had quite a number of cases of that kind, and we generally get to work and straighten most of them out, and only a very few of them cause trouble.

Mr. PHELAN. Why can't the Federal reserve bank protect itself by saying that a copy of that circular you mentioned, or something substantially the same is served on every member bank?

Mr. CURTIS. We can. We have taken steps to do that. We are now protecting ourselves.

Mr. PHELAN. So then you are protected.

Mr. CURTIS. But still the situation really is not a correct one. The Treasury Department is taking a position that every time they get into court the court holds improperly, and in order to fix a definite time I would suggest that some phrase of this character—possibly I should lengthen the time, or possibly there should be a more definite statement of exactly at what point that check is to be considered finally paid, and if it is long, the Treasury has lost the money. That is all. There should be a definite time when that happens with respect to checks.

Mr. PHELAN. What time have you in your amendment?

Mr. CURTIS. I have a provision that it shall not be deemed to have been paid until it shall have been presented to and entered upon the books of the Treasury of the United States. Now there is some point of time when that check ought not to be returnable—along the line of the banking institutions of the country.

Mr. HAND. If Congress enacts that amendment it should appropriate the funds necessary to prevent the Treasurer of the United States from having to put up the cash on his bond, because it would in effect be necessary to make an appropriation to the extent that those checks are ordered not returned. The Treasurer of the United States is personally responsible on his bond, because the Comptroller has held that no check not legally drawn can be charged against any Government account, and so where would we be? If you relieved the Federal reserve bank, it is just passing the responsibility on to the Treasurer, and if the Federal reserve bank is to be relieved, the Treasurer should be relieved too by an appropriation.

Mr. CURTIS. I think so, too.

The CHAIRMAN. Not necessarily by an appropriation should it be? Couldn't it be simply charged as a loss of the Treasury, not chargeable against any person's account?

Mr. HAND. It would have to be some authorization from Congress to enable the accounting officers to pass the items and give the Treasurer credit for it, because the amount has been withdrawn from its assets in the Federal reserve banks. The Treasurer can not charge it to any disbursing officer on his books, so he has lost the cash and he is denied the privilege of a reduction of the liability of any kind.

Mr. CURTIS. Of course in an ordinary banking institution you would have a profit and loss account and it could just be charged to profit and loss and let it go at that.

Mr. HAND. But the Government has no profit and loss account.

Mr. CURTIS. That is true, I think it would probably require a little additional legislation there.

The CHAIRMAN. Now you have some further suggestions?

Mr. CURTIS. I have one very brief suggestion with respect to section 13, about transportation charges.

I notice there are three different kinds of shipments that are spoken of. My thought would be to consolidate that section into one, which would read substantially as follows:

That all transportation charges on account of shipments of gold or silver coin or bullion, United States surplus currency, Federal reserve notes, Federal reserve bank notes, national bank notes, subsidiary silver and minor coin to or from Federal reserve banks or branches, from or to the Treasury of the United States, or from or to the mints and assay offices of the United States and between Federal reserve banks and their branches, on orders of the Treasurer of the United States shall be paid by the United States.

Mr. HAND. There are three items in that, Federal reserve notes, Federal reserve bank notes, and national bank notes that should be eliminated because the Government does not pay the charges on those now. My suggestion is that those three classes be eliminated, Federal reserve notes, Federal reserve bank notes, and national bank notes.

Mr. CURTIS. I know, but this is all qualified by the limiting phrase "on orders of the Treasurer of the United States," and if the Treasurer of the United States orders a fiscal agent to transfer that character of paper currency, I think he ought to pay—I think the Government ought to pay the charges. This would not affect the situation with respect to the original issue of the notes, because those come from the Comptroller of the Currency.

The CHAIRMAN. But if the Treasurer of the United States orders them shipped from one place to another?

Mr. CURTIS. I think he should pay the transportation expenses.

Mr. HAND. It occurred to me that the "on orders of the Treasurer of the United States" did not refer to anything except shipments of subsidiary minor coin.

Mr. CURTIS. It does not, as the bill reads there, but I have changed it in consolidating it.

The CHAIRMAN. We have a constant demand for expenses of shipping currency by banks, for redemption, and I suppose if that were put in it would perhaps take away some of that demand, because they would get currency, the Federal reserve banks and their branches, without expense to the banks.

Mr. JAY. I don't think it would. It is only on order of the Treasurer.

Mr. CURTIS. Yes, that is the way of it.

Mr. PHELAN. Is this what you intend, Mr. Curtis: Do you intend that the Federal reserve banks shall continue to pay these expenses on such transfers as are now paid for, but that on the new thing if we transfer the functions of the subtreasury over to the Federal reserve banks, the Government should pay the charges?

Mr. CURTIS. That is substantially true. I think there would be one or two cases where it would not apply.

Mr. PHELAN. I want to ask about notes, Federal reserve notes of the bank in New York, which the Treasury Department had and sent to the Federal reserve bank in New York for redemption; would that be on order of the Treasurer of the United States?

Mr. CURTIS. Yes, but that event as you have stated it would not happen. The Treasurer would never send them to a Reserve bank.

Mr. PHELAN. He would destroy them in Washington?

Mr. CURTIS. He would destroy them here.

Mr. PHELAN. Yes, I see.

Mr. HAND. And that is a provision I wanted to get out of the bill, because now the charges are paid by the bank that makes the shipment to the Treasury, in the cases of Federal reserve notes, Federal reserve bank notes, and National bank notes, and it was never intended that this bill should give greater privileges than are enjoyed at present.

Mr. PHELAN. Do any of those notes ever come to the Treasury Department on order of the Treasurer?

Mr. HAND. No, the order of the Treasurer was never intended to apply to anything except subsidiary silver and minor coin in the latter part of the section.

Mr. PHELAN. I mean under the Curtis amendment. As I understand it "on order of the Treasurer" applies to all of the various kinds of currency and money that he has mentioned in the bill.

Mr. CURTIS. It would under my suggestion; yes, sir.

Mr. PHELAN. Now will any of the Federal reserve notes, Federal reserve bank notes, national bank notes, to which you refer, Mr. Hand, be sent to Washington on order of the Treasurer?

Mr. HAND. Yes; I guess they have to be for redemption purposes, because the Treasurer of the United States is the only redemption agent by law for Federal reserve bank notes, and national bank notes.

Mr. PHELAN. But are they sent to the Treasury Department on the order of the Treasurer? Those are the words that qualify that.

Mr. CURTIS. Yes; I took the words out of the bill.

Mr. PHELAN. I know, but I mean you intend that those words shall limit the exemption simply to those cases where the Treasury makes the order? Isn't that the situation?

Mr. CURTIS. That was my thought; yes.

Mr. PHELAN. And in that case would the transaction mentioned by you, Mr. Hand, be continued? In other words, wouldn't those notes, Federal reserve bank notes, Federal reserve notes, and national bank notes come in in some other way than on an order of the Treasurer of the United States?

Mr. HAND. Yes, sir; that is true.

Mr. PHELAN. So that they would not be included in Mr. Curtis's amendment, provided Mr. Curtis has said exactly what he meant.

Mr. HAND. It should be, "Treasury of the United States" not "Treasurer," to conform to existing law.

Mr. CURTIS. My thought was that that would; that while they are sent on the initiative of the reserve bank, there would be a standing order for them to be sent. It does seem to me that those expenses should be borne by the Treasury of the United States.

Mr. PHELAN. Well, that is a different thing. You intend that they shall be; Mr. Hand thinks they ought not to be.

Mr. HAND. They are not now. The Federal reserve notes, the Federal reserve bank notes, or national bank notes, none of the transportation charges on those are paid by the United States in the final analysis.

Mr. PHELAN. What I am trying to get at is what the words "on order of the Treasurer" mean. Do you think that under your amendment if Federal reserve notes, Federal reserve bank notes, national bank notes, are sent to the Treasury in the ordinary course of business for redemption, that they come within the phraseology "on the order of the Treasurer"?

Mr. CURTIS. I think they ought to. I really don't know enough of the actual conditions to say.

Mr. PHELAN. That is the point of difference between you two.

Mr. CURTIS. Yes, sir.

Mr. JAY. You mean, Mr. Curtis, that if a member bank from Elmira sends in Federal reserve notes and we want to send them out for redemption to Washington, that the United States ought to pay for it?

Mr. CURTIS. Yes; between the reserve banks and Washington.

Mr. HIGGINS. In so far as Federal reserve notes take the place of United States currency for circulating medium they should not, because they are supplying the currency needs of the country.

Mr. JAY. I am afraid I would not agree with my associates on that.

Mr. PHELAN. No; I should not agree with them there, because Federal reserve notes are absolutely nothing more than a credit extension. That is all. They are just like a credit that your bank gives you, I think, in essence, and nothing more. Isn't that your view, Mr. Jay?

Mr. JAY. They are not really, because they are an advance from the United States.

Mr. PHELAN. I know, but the essence of the thing it is a credit extended by the Federal reserve bank, just as a book credit is extended.

Mr. HIGGINS. But it is supplying the currency needs of the United States.

Mr. PHELAN. And so is the credit.

Mr. JAY. But we are making profit out of that, presumably, Mr. Higgins.

Mr. HIGGINS. Oh, I am not arguing for the expenses being paid; I don't think they should be paid by the Government.

Mr. PHELAN. I don't think they should either, because I think the Federal reserve banks are using that just as they use credit. It is simply a demand for something different by the people.

The CHAIRMAN. National bank notes, and Federal reserve bank notes that is true of, but Federal reserve notes are obligations of the United States Government.

Mr. PHELAN. Yes; I suppose they are.

The CHAIRMAN. They are greenbacks, issued to the banks, according to the terms of the law.

Mr. PHELAN. They are not greenbacks, but suppose they are, we are dealing now with the expense of the thing and the Federal reserve bank used those Federal reserve notes in precisely the same way as it uses its book credit; precisely they are the same thing. The difference is that in one case people want one kind of thing and in the other case they want another kind of thing. Now we have the additional element in one case that the Government is responsible for the Federal reserve notes and is not responsible for the deposits but so far as the Federal reserve bank is concerned the things are the same in essence.

Mr. JAY. To all intents and purposes they are the same as the notes of the Federal reserve bank. You could scratch a line through the "U. S. Government" and the essence of it would not be changed.

The CHAIRMAN. I hope we can do that some day.

Mr. PHELAN. You pay taxes on the Federal reserve notes, etc., don't you? There is a provision in the act where they can be taxed?

Mr. CURTIS. They can be.

Mr. PHELAN. But you made a profit, or you are in a position to make a profit on the issue of the Federal reserve notes, just as you are on your book credits, and the Government doesn't issue those Federal reserve notes to make money upon their issue; they are essentially the same thing and it seems to me they ought to be treated the same, so far as expenses are concerned.

The CHAIRMAN. Now, it is getting toward 1 o'clock, gentlemen. I want to ask Mr. Jay whether he has any further suggestions to make that seem to require another session?

Mr. JAY. Mr. Curtis has one or two suggestions there.

Mr. CURTIS. It will not take me but 5 or 10 minutes.

In section 5 there is something that I am afraid the Secretary of the Treasury will find himself up against. In line 15 it says "shall hereafter." That is, all replacements or changes of mutilated paper currency and redemptions of United States paper currency, etc., shall hereafter be made by the Treasurer of the United States in Federal reserve banks and their branches. Now, that is mandatory and it speaks from the date the bill is approved by the President, and while at the end of it it states that it is all in the discretion of the Secretary of the Treasury, still, in my opinion, if that clause is left as it is, after the day the bill is signed by the President the Secretary of the Treasury could not have those replacements or exchanges or redemptions made at a subtreasury, because that is not within

the field in which his discretion is authorized to be exercised, and I think that section needs rephrasing.

Mr. PHELAN. We have got to provide for the transitory period.

Mr. CURTIS. Exactly. That is the only place in this bill where the word "hereafter" is attached to the mandatory word "shall" and puts you in the position of requiring something to be done really before you are ready to do it.

Mr. JAY. You can fix it by leaving out "hereafter."

Mr. CURTIS. I am not clear that I would not fix it by striking out the word "shall" and substituting "may."

Mr. HAND. The last clause says, "all in the discretion of the Secretary of the Treasury."

Mr. CURTIS. Yes; but his discretion is only with respect to the places authorized in the first part of the section, and if you don't authorize the subtreasury and do say, "shall hereafter be made" in these other places, you have limited his discretion. He could not do it through the subtreasury.

Mr. HAND. Say, "may be made" instead of "shall hereafter."

Mr. CURTIS. I think that would be wise—some phrase like that.

Then in section 7 I have already spoken about inserting the words "of the character authorized by law" after the word "currency," in line 14, and in line 20 I suggest changing the word "treasurer" to "treasurers," making "assistant treasurer" "assistant treasurers," because I think the words "assistant treasurer," as ordinarily read now refer to the Assistant Treasurer in Washington.

Mr. HAND. I suggest inserting in line 14, right after the word "currency," the words "of the class of funds enumerated in section 2 of this act."

The CHAIRMAN. Mr. Curtis suggests "of a character authorized by law."

Mr. CURTIS. I suggested the words "of a character authorized by law," because I wanted to provide not only for trust funds, but other future funds.

Mr. PHELAN. Why do you want to limit it?

Mr. HAND. The only reason that was put in was for the purpose of enabling the Government to do two things—one was to be able to meet its gold demand obligations that may be presented at one of the Federal reserve banks in excess of the gold available at such bank to pay it; the other was to enable an easy working problem of the gold settlement fund for the settlement to cover settlements between the Federal reserve banks, or, in other words, to provide for something that is to take the place of a condition that works very nice now, but how long it may continue I don't know. For instance, if the Federal reserve bank in New York wishes to increase its gold settlement fund with the Federal Reserve Board, it makes a deposit with the assistant treasurer at New York in gold, wires it to the treasurer, and immediately the credit is placed.

Now, if you abolish the subtreasury and it is absolutely necessary for the Federal reserve bank in New York to get a credit in its settlement fund to clear with other Federal reserve banks at the close of business that day, and it can't get that conveniently through rediscount and the sale of securities, it might be necessary to have a special vault or locked compartment there, so that they could put these gold certificates in it, and then we could give them a gold settlement fund credit for it. Do you think that is valuable?

Mr. HIGGINS. I don't see how they can get along without it.

Mr. HAND. I don't see how they can work the gold settlement system without it, and that is one of the main objects of section 7.

Mr. PHELAN. The whole object is to take care of those settlement funds?

Mr. HAND. Not only the gold settlement fund, but also to provide, if necessary, gold coin, silver dollars, at each Federal reserve bank in such volume as will meet the demand for the redemption of gold certificates, United States notes, and silver certificates. Now, for instance, we get notification from the banks, say, in New York that they will need \$18,000,000 in the next 10 days; we haven't \$18,000,000 there; we immediately begin to ship it from the nearest point, the nearest available point where we have it.

The Subtreasuries, not being there to take this gold coin, we can't transfer this trust fund in gold under existing law very well to the Federal reserve bank; the idea is to put it in the Federal reserve banks to the credit of the Treasury as a special gold deposit to be held there to meet the redemption of those demand gold certificates when they are presented. That is in general the idea. It is not for any purpose to give them any advantage but only for two things; the benefit of the Government and possibly for the convenience of the Federal reserve bank.

Mr. PHELAN. Why can't everything that you have mentioned be done under the section as it is, by putting in the words "silver coin"?

Mr. HAND. It can be.

Mr. PHELAN. What you want to do is to confine it to those things? Is that it?

Mr. HAND. Confine it to those things that are mentioned in section 2.

Mr. PHELAN. That is, section 7 now will do everything that is mentioned in section 2, or take care of every situation arising out of section 2?

Mr. HAND. Yes.

Mr. PHELAN. And will do more as it is?

Mr. HAND. Probably.

Mr. PHELAN. And you want to confine it so it will do only those things?

Mr. HAND. I don't see any necessity for extending it beyond section 2.

Mr. PHELAN. Now, let me ask you, Mr. Jay, when we handled that silver fund for India, was that handled by way of special deposit in New York, in the Federal reserve bank?

Mr. JAY. You mean the Pittman Act?

Mr. PHELAN. Yes.

Mr. JAY. I don't know about that.

Mr. HIGGINS. No, Mr. Phelan, as far as New York was concerned the redemption of silver certificates was made right there at the subtreasury.

Mr. PHELAN. What I wanted to get at was this: Suppose we confine this as Mr. Hand has suggested, will it prevent operations that are naturally carried on between the Government and the Federal reserve banks by way of special deposits?

Mr. JAY. I think Mr. Curtis' suggestion would cover Mr. Hand's idea, and also provide for anything in the future. Mr. Curtis suggests special deposits of the class authorized by law, was it?

Mr. CURTIS. Of the character authorized by law.

Mr. PHELAN. The difference between the two is this: Mr. Hand strictly limited it to those transactions that come under section 2, whereas Mr. Curtis would enlarge it and have it cover every transaction authorized by law.

Mr. CURTIS. Why tie the Secretary's hands?

Mr. HAND. There is this, that under section 15 of the Federal reserve bank act the law prohibits the deposit of gold redemption fund in the Federal reserve banks. Now, if you say "of the class of funds authorized by law," do you not tie our hands? You can't then deposit in this special deposit any of this gold redemption fund, which one of the purposes of section 7 is for the particular benefit of.

Mr. JAY. Why not make it both, then, class of funds enumerated in section 2 of this act, or otherwise provided by law?

Mr. PHELAN. I think there may be objections to putting any trust funds in the Federal reserve banks in this shape, but it seems to me there is no objection to making a provision of this sort for the gold trust fund to meet the redemption of gold certificates, that there can't be any objection to having any kind of a special deposit carried by the Federal reserve banks. In other words, I can't think of anything that is of more importance or that is more sacred than that trust fund to meet the redemption of gold and silver certificates. If we are going to do it, I don't know why we can't go the whole distance. That is just simply my off hand opinion.

Mr. HAND. There is no intention to upset the general idea expressed in section 2, that all of the trust funds must go to the mints, but the idea in section 7 is that there may be occasions when it is necessary for some of those trust funds to be put into the Federal reserve banks.

Mr. JAY. That is a mechanical matter.

Mr. HAND. A mechanical proposition, but it is not intended that section 7 shall upset section 2. It is only for special cases. That is the reason why it was limited to "if in his opinion it may be necessary" the Secretary is authorized to do it.

Mr. PHELAN. Before we adjourn, I would like to ask one question right in connection with that section you have mentioned—what is it, section 5? I have not studied the bill carefully enough to know about this, but is there anything in that section or any place in the bill which might require the Federal reserve banks to redeem Government obligations which the Government has made provision for their redemption with the Federal reserve banks or not? In other words, is there any place in the bill where we may be putting a liability upon Federal reserve banks to make redemptions, even though the Government is unable to take care of those redemptions? It says in section 5: "and redemptions of United States paper currency," etc., "shall hereafter be made by the Treasurer of the United States and the Federal reserve banks."

Mr. HAND. Redemption is purely exchange.

The CHAIRMAN. I don't see how there could be any question about that.

Mr. PHELAN. My question is this—I don't know that it is involved, but the thing we want to watch out for is, Will that compel Federal reserve banks to redeem national-bank notes whenever presented, without any regard as to whether the Government has sufficient reserve?

The CHAIRMAN. Not national-bank notes, because it says United States paper currency.

Mr. PHELAN. Well, that would be greenbacks, silver certificates, gold certificates, United States Treasury notes.

Mr. JAY. We do it on behalf of the Government.

Mr. PHELAN. I understand what is intended, and I may have a fear of something that does not exist at all; but I think it is well to watch these things. Now, are we putting that obligation upon the Federal reserve banks without any reference as to whether the Government stands back of the Federal reserve banks or not? I don't know whether I have made myself clear.

Mr. CURTIS. I see your point.

Mr. PHELAN. I don't know that the question will ever arise; I certainly hope it will not, but this is the time to think about it and not later.

Mr. CURTIS. Your very question is one reason why I want that clause about the nonliability of reserve banks in the absence of negligence. It is just this type of question that may arise. We can't foresee them all, and I am free to say that I don't know the answer to that, whether the Secretary of the Treasury could make such an unreasonable rule or regulation as to require the Federal reserve bank to redeem something, although he has not the proper stuff with which it should be redeemed. I don't believe he could.

Mr. PHELAN. It says "under such rules and regulations as he may prescribe."

Mr. CURTIS. I don't doubt that he could, but I think that whole question would be covered if you put in a clause that the reserve banks will not be liable except for negligence, because then the Treasury would be bound to stand behind whatever they did in attempting to carry out the rules and regulations of the Secretary.

Mr. PHELAN. I had in mind that the Treasury might be temporarily unable to do it and that would be a new load to be carried by the Federal reserve banks during that period, if it ever comes.

Mr. CURTIS. Well, that would not be a new load to pack.

The CHAIRMAN. Now, is that the end of your suggestions, Mr. Curtis?

Mr. CURTIS. No, sir; I have a suggestion in section 10, line 13. This is in respect to taking care of the present employees in the subtreasuries. I would suggest inserting in line 13, before the word "employees," the words "or any of the." So that it would read: "prevent the Federal reserve banks from taking over all or any of the employees in the subtreasuries." That makes it a little clearer that they can take over some or all.

Then as to the general taking effect of the act, I would suggest to the committee a saving clause something like this—and my reason for it is that there are a good many officers of the Government and other persons who are required or permitted to have business relations with the Subtreasuries, and there should be a general clause operating upon them as well as upon the officers and employees of the Subtreasuries themselves. There are some 60 sections of the Revised Statutes that will be affected by this bill, and consequently I would suggest an operating clause at the end such as this:

This act shall take effect upon its passage: *Provided*, That so much of this act as affects the rights, duties, or liabilities of the officers or employees at the several Sub-

treasuries, or of officers or persons required or permitted by law to transact business therewith, shall become effective with respect to each Subtreasury and to the officers, employees, and persons connected therewith, only upon its discontinuance by the Secretary of the Treasury as herein provided.

Now that might save trouble for your collectors of customs, internal-revenue and disbursing officers, all of whom have very strict statutory requirements just how to handle their business.

The CHAIRMAN. That is true. Don't you think there is something in that suggestion?

Mr. H. P. HUDDLESON (Division of Public Moneys, United States Treasury). It is very important, I think, Mr. Chairman, that this bill include an appropriation sufficient to carry silver coin and gold coin from the Subtreasury to the place of storage. I have gone into the thing very carefully and I find it will take \$291,737.81, and that includes the special express rate on all gold coin. On silver coin we have no special rate, but on gold coin we have a special rate and it is possible that a portion of this can be sent by parcel post, by registered mail, which will make it slightly cheaper, but this expense is down to the minimum.

The CHAIRMAN. You have got that very closely figured. What was that amount?

Mr. HUDDLESON. The total figure would be \$291,737.81. There are \$244,233,797.78 in gold coin, and \$97,795,366 in silver coin in the Subtreasuries, and that doesn't take in the subsidiary and minor coin which would naturally be turned over to the Federal reserve bank, perhaps in the same building, and left there. I don't know whether you are going to permit the Federal reserve banks to occupy the space that is now occupied by the Subtreasuries in the Federal buildings, but it is possible that in Cincinnati and one or two other places it may be absolutely necessary. The quarters are very limited for the Federal reserve bank there, and unless they can get larger quarters I think they would have to use the rooms occupied by the Subtreasury at the present time. That may be true of one or two other places, so I include a very small expense for the transfer of subsidiary silver and minor coin.

Mr. PHELAN. Mr. Curtis, I would like to ask you another question upon a matter which I have given some thought to. I suppose there is some law now putting penalties upon any Government employees who misapply funds among these trust funds. I presume that there would be some penalty attaching to any officer of the Federal reserve bank who did the same thing, contrary to law, or contrary to good faith. Have you thought anything about that, as to whether or not an officer in a Federal reserve bank who had in part the custody of these trust funds might escape punishment for some wrongdoing?

Mr. CURTIS. They would all be liable in the first instance to the State law wherever they were situated, of course.

Mr. PHELAN. Yes, but you don't know that there is anything coming up, but you know we found that once in the Federal reserve act we had not made provision for some people who misapplied funds or made false entries or something of that sort in the books of the Federal reserve bank, and we had better watch out and not make the same mistake here, or the same omission.

Mr. CURTIS. I thought there was something in the new section 22 I may be wrong about that.

Mr. PHELAN. Well, I thought perhaps you had considered that.

Mr. CURTIS. No, I have not.

Mr. PHELAN. The second thing is whether or not there is some provision relative to the bonding of the Government employees who have these funds in charge, which does not, and under the provisions of the bill may not, apply to the Federal reserve bank officials who may have similar custody.

Mr. CURTIS. That would all be covered by the regulations to be issued by the Secretary, I should think, and it would be a detail of administration. Of course Mr. Jay here is under heavy bond, and I don't know how many others, but not very many others.

Mr. PHELAN. It is just a matter of principle, because I imagine that no matter what size the bond was, any defalcation might exceed the size of the bond, but I wanted to know whether any provision had been made.

Mr. CURTIS. No, there is nothing in any draft of law that I have seen on that subject, but I should think that might easily be left to the Secretary's discretion.

Mr. PHELAN. The other thing could not be.

Mr. CURTIS. No, the question of the definite liability under the criminal statute could not be, of course.

Mr. PHELAN. I would like to hear some statement from these Treasury officials, Mr. Chairman.

The CHAIRMAN. Well, we have been asking Mr. Hand about it.

Mr. PHELAN. Except we haven't asked him what the duties of the subtreasuries are to-day. Perhaps you could cover that in a written statement.

The CHAIRMAN. Mr. Hand, how fully are they covered in that study by the Bureau of Efficiency, published a few years ago?

Mr. HAND. It is practically totally covered in that published report.

The CHAIRMAN. That is what I thought. I don't think we need to go into that. If you gentlemen think it is worth while we can have further hearings, but if you do not I will entertain a motion to adjourn, Mr. Phelan.

Mr. PHELAN. Then I move that we adjourn.

(Whereupon, at 12.30 o'clock p. m., the committee adjourned).

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